Supreme Court, U. S.
FILED
SEP 25 1975
MICHAEL RODAK, JR., CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM, 1975

No. 75-474

STATE BOARD OF ELECTIONS FOR THE STATE OF ILLINOIS, and MICHAEL L. LAVELLE, DONALD W. ADAMS, FRANKLIN W. LUNDING JR. and WILLIAM L. HARRIS, individually and as members of the State Board of Elections,

Petitioners,

vs.

COMMUNIST PARTY OF ILLINOIS, ISHMAEL FLORY, LORRAINE ASHBY, JOHN LUMPKIN, JAY SCHAFFNER, VALERIE WITZKOWSKI; and THEODORE PEARSON, individually and on behalf of others similarly situated,

Respondents.

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

WILLIAM J. SCOTT,
Attorney General of Illinois,
160 North LaSalle,
Chicago, Illinois,

Attorney for Petitioners.

HERBERT LEE CAPLAN,
Assistant Attorney General,
312/793-3587

Of Counsel.

Printed by Authority of the State of Illinois

INDEX

	Page
Opinion Below	2
Jurisdiction	2
Questions Presented	2
Statute Involved	3
Statement of the Case	6
Reasons for Granting the Writ	8
The decision below is unsupported by evidence in the record and misconstrues the reach of Supreme Court Decisions.	
The decision below involves important questions of federal law which have not been but should be decided by this Court.	
Conclusion	20
Certificate of Service	22
Appendix:	
A. Opinion of the Seventh Circuit Court of Appeals	A1
B. Opinion and Order of the District Court	B1
C. Opinion of Earlier Related Three Judge Court	C1
D. Summary of Vote in November 5, 1974 General Election	D1
E. Summary of Vote in November 7, 1972 General Election	E1

TABLE OF AUTHORITIES

CASES:	
Abate v. *Mundt*, 403 U.S. 183, 186, 91 S. Ct. 1904, 1907 (1971)	13

American Party of Texas v. *White*, 415 U.S. 767, 781-782, 94 S. Ct. 1296, 1306 (1974) 13
Baird v. *Davoren*, 346 F. Supp. 515 (Mass. 1972) 11
See *Buckley* v. *Valeo*, —— Fed. 2nd ——, (D.C.C. 1975), 44 LW 2105 18
Carroll v. *President and Commissioners of Princess Anne*, 393 U.S. 175, 178-179, 89 S. Ct. 347, 350, 351 (1968) 12
Communist Party v. *Austin*, 362 F. Supp. 27, 30 (E.D. Mich. 1973) 13
Communist Party v. *Ogilvie*, 357 F. Supp. 105 (N.D. Ill. 1972) 11
Dusch v. *Davis*, 387 U.S. 112, 117, 87 S. Ct. 1554, 1556 (1967) 16
Gaffney v. *Cummins*, 412 U.S. 735, 93 S. Ct. 2321, 2325, 2329, 2331 (1973) 13
Jenness v. *Fortson*, 403 U.S. 431, 442, 91 S. Ct. 1970, 1976 (1970) 18
MacDougall v. *Green*, 80 F. Supp. 725, aff'd. 335 U.S. 281, 285, 286, 69 S. Ct. 1 (1948) 9
Moore v. *Ogilvie*, 293 F. Supp. 411, 394 U.S. 814, 89 S. Ct. 1493 (1969) 9, 10, 11, 12, 16, 20
Reynolds v. *Sims*, 300 U.S. 533, 578, 84 S. Ct. 1362, 1390 (1964) 13
Socialist Labor Party v. *Rhodes*, 318 F. Supp. 1262, 1269 (S.D. Ohio 1970), app. dis. 406 U.S. 583, 588, 92 S. Ct. 1716, 1719 (1972) 11, 14
Socialist Workers Party v. *Hare*, 304 F. Supp. 534 (E.D. Mich. 1969) 11
Socialist Workers Party v. *Rockefeller*, 314 F. Supp. 984 (S.D. N.Y. 1970) 11, 17

Southern Pacific Terminal Co. v. *I.C.C.*, 219 U.S. 498, 515, 31 S. Ct. 279, 283 (1911) 12
Storer v. *Brown*, 415 U.S. 724, 730-731, 94 S. Ct. 1274, 1279, 1282 (1974) 12, 17
U.S. v. *W. T. Grant Co.*, 345 U.S. 629, 632-633, 73 S. Ct. 894, 897-898 (1953) 12
Zautra v. *Miller*, 384 F. Supp. 847, 850 (D. Utah, 1972) 18

STATUTES:

Federal

Title 26, U.S.C. § 9033 (b) (3) 18

State

Ill. Rev. Stat. 1957, Chap. 46, 10-2 9
Ill. Rev. Stat. 1973, Chap. 46, § 10-2 ...3, 6, 8, 11, 14, 16

IN THE

Supreme Court of the United States

OCTOBER TERM, 1975

No.

STATE BOARD OF ELECTIONS FOR THE STATE OF ILLINOIS, and MICHAEL L. LAVELLE, DONALD W. ADAMS, FRANKLIN W. LUNDING JR. and WILLIAM L. HARRIS, individually and as members of the State Board of Elections,

Petitioners,

vs.

COMMUNIST PARTY OF ILLINOIS, ISHMAEL FLORY, LORRAINE ASHBY, JOHN LUMPKIN, JAY SCHAFFNER, VALERIE WITZKOWSKI; and THEODORE PEARSON, individually and on behalf of others similarly situated,

Respondents.

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

The State Board of Elections for the State of Illinois, and Michael E. Lavelle, Donald W. Adams, Franklin J. Lunding, Jr. and William L. Harris, individually and as members of the State Board of Elections, respectfully pray that a Writ of Certiorari issue to review the judgment and opinion of the United States Court of Appeals for the Seventh Circuit entered on June 27, 1975.

OPINION BELOW

The opinion of the Court of Appeals is reported at 518 F. 2d 517 and is included herein as Appendix A. The opinion and order of the United States District Court for the Northern District of Illinois, Eastern Division, is not reported and is included herein as Appendix B. An earlier related interlocutory opinion is reported at 357 F. Supp. 105 and is included herein as Appendix C.

JURISDICTION

The judgment and opinion of the Court of Appeals for the Seventh Circuit was entered on June 27, 1975. The jurisdiction of this court is invoked under Title 28 U.S.C. § 1254(1).

QUESTION PRESENTED

Whether a State may require a new political party seeking statewide ballot position to organize in more than one concentrated geographical area.

STATUTE INVOLVED

Illinois Election Code, Section 10-2;

Ill. Rev. Stats. 1973, Chap. 46, § 10-2.

"...

A political party which, at the last general election for State and county officers, polled for its candidate for Governor more than 5% of the entire vote cast for Governor, is hereby declared to be an "established political party" as to the State and as to any district or political subdivision thereof.

A political party which, at the last election in any congressional district, legislative district, county, township, school district, park district, municipality or other district or political subdivision of the State, polled more than 5% of the entire vote cast within such congressional district, legislative district, county, township, school district, park district, municipality, or political subdivision of the State, where such district, political subdivision or municipality, as the case may be, has voted as a unit for the election of officers to serve the respective territorial area of such district, political subdivision or municipality, is hereby declared to be an "established political party" within the meaning of this Article as to such district, political subdivision or municipality.

Any group of persons hereafter desiring to form a new political party throughout the State, or in any political subdivision greater than a county and less than the State, shall file with the State Board of Elections a petition, as hereinafter provided; and any such group of persons hereafter desiring to form a new political party, in any county shall file such petition with the county clerk; and any such group of persons hereafter desiring to form a new political party in any municipality or district less than a county shall file

such petition with the clerk or Board of Election Commissioners of such municipality or district, as the case may be. Any such petition for the formation of a new political party throughout the State, or in any such district or political subdivision, as the case may be, shall declare as concisely as may be the intention of the signers thereof to form such new political party in the State, or in such district or political subdivision; shall state in not more than 5 words the name of such new political party; shall contain a complete list of candidates of such party for all offices to be filled in the State, or such district or political subdivision as the case may be, at the next ensuing election then to be held; and, if such new political party shall be formed for the entire State, shall be signed by not less than 25,000 qualified voters: Provided, that no more than 13,000 signatures from the same county may be counted toward the required total of 25,000 signatures. If such new political party shall be formed for any district or political subdivision less than the entire State, such petition shall be signed by qualified voters equaling in number not less than 5% of the number of voters who voted at the next preceding general election in such district or political subdivision in which such district or political subdivision voted as a unit for the election of officers to serve its respective territorial area.

The filing of such petition shall constitute the political group a new political party, for the purpose only of placing upon the ballot at such ensuing election such list of party candidates for offices to be voted for throughout the State, or for offices to be voted for in such district or political subdivision less than the State, as the case may be, under the name of and as the candidates of such new political party.

If, at such ensuing election, the new political party's candidate for Governor shall receive more than 5% of the entire votes cast for Governor, then such new political party shall become an "established political party" as to the State and as to every district or political subdivision thereof. If, at such ensuing election, the other candidates of the new political party, or any other candidate or candidates of the new political party shall receive more than 5% of all the votes cast for the office or offices for which they were candidates at such election, in the State, or in any district or political subdivision of the State, as the case may be, then and in that event, such new political party shall become an "established political party" within the State or within such district or political subdivision less than the State, as the case may be, in which such candidate or candidates received more than 5% of the votes cast for the office or offices for which they were candidates. It shall thereafter nominate its candidates for public offices to be filled in the State, or such district or political subdivision of the State, as the case may be, under the provisions of the laws regulating the nomination of candidates of established political parties at primary elections and political party conventions, as now or hereafter in force.

A political party which continues to receive for its candidate for Governor more than 5% of the entire vote cast for Governor, shall remain an "established political party" as to the State and as to every district or political subdivision thereof. But if the political party's candidate for Governor fails to receive more than 5% of the entire vote cast for Governor, or if the political party does not nominate a candidate for Governor, the political party shall remain an "established political party" within the State or within such district or political subdivision less than the State, as the case may be, only so long as, and only in those districts or political subdivisions in which, the candidates of that political party, or any candidate or candidates of that political party, continue to receive more than 5% of all the votes cast for the office or offices for which they were candidates at succeeding general elections within the State or within any district or political subdivision of the State, as the case may be."

STATEMENT OF THE CASE

The Communist Party of Illinois is an unincorporated voluntary association having its principal office in Chicago, Illinois. The Party, and its designated candidates for statewide office, sought recognition as a new statewide political party, and ballot position in the November 5, 1974 general election, pursuant to Section 10-2 of the Illinois Election Code, Ill. Rev. Stats. 1973, Chap. 46, § 10-2.

Although the candidates of the Communist Party of Illinois have appeared on the statewide ballot in prior elections, they have always failed to receive 5% of the votes cast in those elections, and thus do not qualify as an established political party. (See Appendix D and E)

The Illinois Election Code requires a petition for the formation of a new political party throughout the State to contain not less than 25,000 signatures, provided that no more than 13,000 may be counted from one county.

Respondents submitted petitions containing 23,000 signatures from Cook County. Objections were filed to the sufficiency of the nominating petitions, which objections were sustained by the State Board of Elections.

Thereafter, Respondents brought suit in the District Court to declare the Illinois signature distribution provisions of § 10-2 unconstitutional and to enjoin its enforcement. Jurisdiction was alleged under 28 U.S.C. § 1343(3), 1343(4), 2201, 2202 and the First, Fifth and Fourteenth Amendments to the United States Constitution.

A motion for temporary restraining order and preliminary injunction was presented. The trial judge declined to convene a three judge court and entered a preliminary mandatory injunction declaring Section 10-2 of the Illinois

Election Code violative of the equal protection and due process clauses of the Fourteenth Amendment, and directing the Illinois State Board of Elections to certify the names of the Communist Party candidates for the November 5, 1974 Illinois General Election. (Appendix B) On appeal of this order, the Court of Appeals affirmed the District Court.

BEST COPY AVAILABLE

REASONS FOR GRANTING THE WRIT

The District Court ruled that the Illinois "signature distribution requirement constitutes an arbitrary formula which grants one group greater voting strength than another and discriminates against voters of the most populous county of the State in favor of less populous counties."

The Circuit Court of Appeals affirmed, holding that the "county distribution requirement of section 10-2 of the Illinois Election Code, like its predecessor, 'lacks the equality to which the exercise of political rights is entitled under the Fourteenth Amendment.' "

This conclusion is based upon an overstatement of the reach of prior Supreme Court decisions, and a failure to perceive the real impact of the election law upon voters in Illinois.

The issue is not "one man-one vote" but whether any proposed new statewide political party is a serious one and has risen to the dignity of a statewide ballot position. There is no signature distribution restriction upon ballot position for countywide office. Discussion of statewide candidates and issues is impaired, and the public interest disserved, however, by enabling a flooding of the statewide ballot with local fringe candidates whose election activities and support is limited to a single county enclave. The Election Code, Chap. 46, § 10-2, based on historical experience, serves to screen out the frivolous and nuisance candidacies, and to encourage and promote serious statewide political party activity.

The present signature distribution requirement of the Illinois Election Code must be understood in the context of the litigation which preceded its enactment, and the realities of Illinois politics.

The State is organized into 102 counties. Of these, Cook County is uniquely the most urbanized county, containing approximately 50% of the total State population. The remaining 101 counties, typically referred to as "Downstate", contain the remaining 50% of the population.

Prior to *Moore* v. *Ogilvie*, 394 U.S. 814 (1969), Section 10-2 of the Illinois Election Code, Ill. Rev. Stats. 1957, Chap. 46, § 10-2, required a new statewide political party to obtain at least 200 qualified voters' signatures from each of at least 50 counties, to qualify for a place upon the ballot.

An original challenge to this provision, on Fourteenth Amendment constitutional grounds, was rejected by a three-judge court in *MacDougall* v. *Green*, 80 F. Supp. 725, affirmed 335 U.S. 281, 285, 286, 69 S. Ct. 1 (1948). In *MacDougall* the U.S. Supreme Court observed:

> "The appellants' claim to equitable relief against this ruling is based upon the peculiar distribution of population among Illinois' 102 counties.
>
> • • •
>
> *It is clear that the requirement of two hundred signatures from at least fifty counties gives to the voters of the least populous counties of Illinois the power completely to block the nomination of candidates whose support is confined to geographically limited areas.*
>
> • • •
>
> It is allowable State policy to require that candidates for Statewide office should have support not limited to a concentrated locality.
>
> • • •
>
> It would be strange indeed, and doctrinaire for this court, applying such broad constitutional concepts as

> due process and equal protection of the laws, to deny a State the power to *assure a proper diffusion of political initiative as between its thinly populated counties and those having concentrated masses, in view of the fact that latter have practical opportunities for exerting their political weight at the polls not available to the former.* The Constitution—a practical instrument of government—makes no such demands on the States . . ." (Emphasis added)

Twenty-one years later, in *Moore* v. *Ogilvie,* 293 F. Supp. 411, reversed 394 U.S. 814, 89 S. Ct. 1493 (1969), the U.S. Supreme Court restated the issue:

> "It is no answer to the argument under the Equal Protection Clause that this law was designed to require statewide support for launching a new political party rather than support from a few localities. *This law applies a rigid, arbitrary formula to sparsely settled counties and populous counties alike. . . .*" (Emphasis added)

Two justices dissented in the *Moore* case, saying:

> "The Court held in *MacDougall* v. *Green,* 335 U.S. 281, in sustaining the very statutory requirement here at issue that Illinois had pursued an 'allowable state policy [of] require[ing] that candidates for statewide office should have support not limited to a concentrated locality.' Id. at 283. That conclusion seems to me to be no less sound today than it was at the time of the *MacDougall* decision."

Significantly, the majority in the *Moore* case did not say that all signature distribution requirement per se are unconstitutional. To the contrary, the Court recognized that nominating petitions are an "integral part of the state elective system," and that limitations may be imposed if they can "pass muster against charges of discrimination or of abridgement of the right to vote." The majority opinion

noted that "we have said enough to indicate why *MacDougall* v. *Green* is out of line with our recent apportionment cases." 394 U.S. 814 at p. 818.

Thereafter, similar "rigid, arbitrary formula" of other States were also struck down: *Socialist Workers Party* v. *Rockefeller,* 314 F. Supp. 984 (S.D. N.Y., 1970), New York statute requiring at least 50 signatures from each county of the State; *Socialist Labor Party* v. *Rhodes,* 318 F. Supp. 1262 (S.D. Ohio, 1970), an Ohio statute requiring 200 signatures from at least 30 counties; *Socialist Workers Party* v. *Hare,* 304 F. Supp. 534 (E.D. Mich. 1969), a Michigan statute requiring 100 signatures from at least 10 counties; *Baird* v. *Davoren,* 346 F. Supp. 515 (Mass. 1972), a Massachusetts statute requiring signatures from at least three counties.

In response to the *Moore case,* and its progeny, the Illinois General Assembly redrafted the signature provision of the Election Code to eliminate the "rigid, arbitrary formula applicable to sparsely settled counties and populous counties alike", and enacted the present § 10-2:

> ". . . And, if such new political party shall be formed for the entire state, shall be signed by not less than 25,000 qualified voters: Provided, that no more than 13,000 signatures from the same county may be counted toward the required total of 25,000 signatures."

Communist Party v. *Ogilvie,* 357 F. Supp. 105 (N.D. Ill. 1972) (Appendix C) involves the amended § 10-2, but, unlike the other cases cited by the court below, it was an unappealed interlocutory order. The court majority addressed itself primarily to the loyalty oath issue and recited, in one brief paragraph on the signature distribution requirement, a conclusion to support issuance of a preliminary injuction. No all-inclusive class was established, and the named

Plaintiffs immediately thereafter appeared on the ballot and lost the election. (Appendix E) The issue becoming moot, Plaintiffs failed to ever prosecute their lawsuit to final judgment.

Now, the same tactical situation has reoccurred and the constitutional question has again become one "capable of repetition but evading review." *Southern Pacific Terminal Co.* v. *I.C.C.*, 219 U.S. 498, 515, 31 S Ct. 279, 283 (1911); *Moore* v. *Ogilvie*, 394 U.S 814, 816, 89 S. Ct. 1493, 1494 (1969); *Carroll* v. *President and Commissioners of Princess Anne*, 393 U.S. 175, 178-179, 89 S. Ct. 347, 350, 351 (1968); *United States* v. *W. T. Grant Co.*, 345 U.S. 629, 632-633, 73 S Ct. 894, 897-898 (1953).

In the instant action, the trial court could see no difference between the earlier "rigid, arbitrary formula" cases and the current Illinois situation. This superficial "knee-jerk" response is neither compelling in legal analysis, nor in accord with current pragmatic Supreme Court tests of election laws.

As Mr. Justice White most recently said in *Storer* v. *Brown*, 415 U.S. 724, 730-731, 94 S. Ct. 1274, 1279, 1282 (1974):

> "It has never been suggested that the *Williams-Kramer-Dunn rule* automatically invalidates every substantial restriction on the right to vote or to associate . . . as a practical matter, there must be a substantial regulation of elections . . . if some sort of order, rather than chaos, is to accompany the democratic processes. . . . Decisions in this context, as in others, is very much a 'matter of degree,' Dunn v. Blumstein, supra, 405 U.S., at 348, 92 S. Ct., at 1066, very much a matter of 'consider[ing] the facts and circumstances behind the law, the interests which the State claims to be protecting, and the interests of those who are disadvantaged by the classification.' Williams v. Rhodes, supra, 393

> U.S., at 30, 89 S. Ct. at 10; Dunn v. Blumstein, supra, 405 U.S., at 335, 92 S. Ct. at 999. What the result of this process will be in any specific case may be very difficult to predict with great assurance."

In *Communist Party* v. *Austin*, 362 F. Supp. 27, 30 (E.D. Mich. 1973), the court noted that "[a] state is not required to devise a statutory scheme for access to the ballot that provides perfect equality under all contingencies, at all times."

Rather, "particular circumstances and needs . . . may sometimes justify departures from strict equality." *Abate* v. *Mundt*, 403 U.S. 183, 186, 91 S. Ct. 1904, 1907 (1971); *Reynolds* v. *Sims*, 300 U.S. 533, 578, 84 S. Ct. 1362, 1390 (1964).

In *American Party of Texas* v. *White*, 415 U.S. 767, 781-782, 94 S. Ct. 1296, 1306 (1974), the Supreme Court said:

> "If claiming an equal protection violation, the Appellants' burden was to demonstrate in the first instance a *discrimination against them of some substance.* Statutes create many classifications which do not deny equal protection; *it is only 'invidious discrimination' which offends the constitution.*" (Emphasis added)

The court said in *Gaffney* v. *Cummins*, 412 U.S. 735, 93 S. Ct. 2321, 2325, 2329, 2331 (1973):

> "We think that appellees' showing of numerical deviations from population equality among the Senate and House districts in this case failed to make out a prima facie violation of the Equal Protection Clause of the Fourteenth Amendment . . .
>
> • • •
>
> Fair and effective representation may be destroyed by gross population variations among districts, but it is apparent that such representation does not depend

solely on mathematical equality among district populations. There are other relevant factors to be taken into account and other important interests that States may legitimately be mindful of [Citations omitted]

* * *

We are quite unconvinced that the reapportionment plan . . . violated the Fourteenth Amendment because it attempted to reflect the relative strength of the parties in locating and defining election districts. It would be idle, we think, to contend that any political consideration taken into account in fashioning a reapportionment plan is sufficient to invalidate it."

In the case at bar, the trial court did not conduct an evidentiary hearing on the factual allegations of discrimination, or undertake to actually consider, balance and weigh the conflicting public and private interests involved. Most importantly, the trial court made no effort to verify the impact of the "Chicago-Downstate" configuration upon statewide political party activity.

Respondents failed to adduce evidence that Chapter 46, § 10-2 is unreasonable and has a "real and appreciable impact on the exercise of the franchise." There is not a scintilla of evidence in the record that the signature distribution requirement has prevented a legitimate, new statewide political party from obtaining ballot position, nor has there been a showing in any way that voters in the "less populous counties" have thus been given "greater voting strength" than voters in the "most populous county."

Before reaching its conclusion in *Socialist Labor Party* v. *Rhodes,* 318 F. Supp. 1262, 1269 (S.D. Ohio 1970), the trial court first determined that:

"The changes in Ohio election laws effectuated in the 1948-1952 period dramatically, and adversely, affected the rights of individuals to associate for the

advancement of political beliefs. They also deprived qualified voters of the right to effectively cast their ballots for candidates other than those running as Democrats or Republicans. From 1952 to date there was not one independent or third party candidate on the Ohio ballot running for a state office.

It is thus clear from the history of Ohio's election laws that since 1952 they have effectively precluded persons in Ohio from exercising their rights to political association outside the Democratic and Republican parties. To justify such a restriction on an important, constitutionally guaranteed right, the state must show a compelling state interest. It has not done so. Everything that has happened in the Ohio electoral process since 1952 suggests that no compelling state interest justifies the perpetration of the present statutory entanglement."

The United States Supreme Court, in dismissing the appeal, 406 U.S. 583, 588, 92 S. Ct. 1716, 1719 (1972) found that "all issues litigated below have become moot except for one" and as to that issue, said:

"The long and the short of the matter is that we know very little more about the operation of the Ohio affidavit procedure as a result of this lawsuit than we would if a prospective plaintiff who had never set foot in Ohio had simply picked this section of the Ohio election laws out of the statute books and filed a complaint in the District Court setting forth the allegedly offending provisions and requesting an injunction against their enforcement. These plaintiffs may well meet the technical requirement of standing, and they may be parties to a case or controversy, but their case has not given any particularity to the effect on them of Ohio's affidavit requirement."

In the case at bar, the only evidence existing at all is spread in the public records of the election returns (see Appendix D and E) showing consistent failure of Respond-

ents to muster even token statewide support of their party, or to garner a vote total equalling the purported signatures on their nominating petitions (not even in the most populous county).

Respondents state that "of 6,040,627 registered Illinois voters, 2,748,969—45% reside in Cook County." The Election Code, in effect, limits a statewide party from using nominating signatures from the most populous county, i.e. Cook, in excess of 52%, or 6-½% over the population spread.

Thus, a serious statewide political party may utilize localized support, but to obtain statewide ballot position, it is also required to organize itself outside a concentrated local area (and no area is more concentrated that the "Chicago" area).

In electoral politics, it has been the vote effectiveness of downstate voters which is diluted by the demographic realities. Without some regulation, Chicago fringe candidates would have the power to flood the statewide ballot in every election.

Balancing this inequality is the object of the signature distribution requirements of § 10-2. It should be noted that this is the converse of the situation in *Moore* v. *Ogilvie*. Here, it is the defeat of § 10-2 which will operate to further augment "Chicago" voting power at the expense of "downstate" voters, and defeat "one-man-one vote" principles as they come into play in real politics. In practice, Section 10-2 creates "no invidious discrimination which offends the constitution."

As Mr. Justice Douglas recognized in *Dusch* v. *Davis*, 387 U.S. 112, 117, 87 S. Ct. 1554, 1556 (1967).

> "The Seven-Four Plan seems to reflect a detente between urban and rural communities that may be important in resolving the complex problems of the modern megalopolis in relation to the city, the suburbia and the rural countryside.

The court in *Storer* v. *Brown*, 415 U.S. 724, 730-731, 94 S. Ct. 1282, notes that in regulating the election process the States are not required to use "ineffectual means" to achieve its aims:

> "To conclude otherwise might sacrifice the political stability of the system of the State, *with profound consequence for the entire citizenry, merely in the interest of particular candidates and their supporters having instantaneous access to the ballot.*" (Emphasis added).

Socialist Workers Party v. *Rockefeller*, 314 F. Supp. 984 (1970), cited by the trial court, says of the power of States to regulate ballot access:

> "Of course, *the State is not powerless to fix reasonable standards or requirements for a position on the ballot so that multifarious political associations with little or no popular support do not bemuse the electoral process.*" (Emphasis added)

In *Storer* v. *Brown*, 415 U.S. 724, 730-731, 94 S. Ct. 1274, 1280 (1974), the court goes on to say:

> "Other variables must be considered where qualifications for candidates rather than for voters are at issue.
>
> • • •
>
> Subsequently, in *Bullock* v. *Carter*, 405 U.S. 134, 145, 92 S. Ct. 849, 31 L. Ed. 2d 92 (1972), a unanimous Court said:
>
> 'The Court has recognized that a State has a legitimate interest in regulating the number of candidates on the ballot. Jenness v. Fortson, 403 U.S. at 442, 91 S. Ct. at 1976; Williams v. Rhodes, 393 U.S. at 32, 89 S. Ct. 5 at 11. *In so doing, the State understandably and prop-*

erly seeks to prevent the clogging of its election machinery, avoid voter confusion, and assure that the winner is the choice of a majority, or at least a strong plurality, of those voting, without the expense and burden of runoff elections. . . . Moreover, *a State has an interest, if not a duty, to protect the integrity of its political processes from frivolous or fraudulent candidacies.* Jenness v. Fortson, 403 U.S. at 142, 91 S. Ct. at 1976.

Against this pattern of decision, we have no hesitation in sustaining § 6830(d)." (Emphasis added)

In *Jenness* v. *Fortson,* 403 U.S. at 431, 91 S. Ct. at 1976, the Court also states:

"The fact is that there are obvious differences in kind between the needs and potentials of a political party with historically established broad support, on the one hand, and a new or small political organization on the other. . . . Sometimes the grossest discrimination can lie in treating things that are different as though they were exactly alike. . . ."

The very principle of distribution rejected by the trial court and the circuit court in the case at bar has been made an essential qualifying condition in the Federal Election Campaign Act Amendments of 1974, P.L. 93-443, Chap. 26, U.S.C. § 9033 (b) (3), which requires a candidate to receive:

". . . matching contributions which in the aggregate, exceed $5,000 in contributions *from residents of each of at least 20 states . . .*" (Emphasis added)

See *Buckley* v. *Valeo,* —— Fed. 2nd ——, (D.C.C. 1975), 44 LW 2105.

The objectives of Illinois election law and procedure is very similar to that discussed in *Zautra* v. *Miller,* 348 F. Supp. 847, 850 (D. Utah, 1972):

"The question before this court is whether the Fourteenth Amendment mandates the elimination of even minimal geographical burdens of conceivably discriminatory effect upon the formation of political parties.

• • •

New political parties have been successfully formed in Utah through compliance with the law.

• • •

Plaintiffs have supplied no indication that the Utah law has any real, or appreciable, discriminatory effect upon the franchise in Utah.

Utah law contemplates the establishment of political parties with detailed, statewide organizations. During the first year of operations, the law questioned by plaintiffs contemplates the holding of conventions in at least the minimum ten counties in which signatures were obtained. Utah Code Ann. § 20-3-2(g)(2) (Supp. 1971), set out in note 1, *supra.* After the first year, a new political party must hold organizational conventions in every county in the state. Utah Code Ann. § 20-4-1 (Supp. 1971). Thus the political party qualification requirements rest upon a rational basis: they are an intermediate step adapted to the orderly establishment of a statewide party organization. The requirement of such a statewide organization is a legitimate state purpose so long as it imposes no undue burden on the election process. *See,* Jenness v. Fortson, 403 U.S. 431, 91 S. Ct. 1970, 29 L. Ed. 2d 554 (1971); *cf., supra* note 5.

Traditionally political paries have exerted the greatest of influence upon state and national government. It is not unreasonable for a state to require such parties to provide even the residents of sparsely-settled counties with an opportunity to involve themselves in

party machinery which may ultimately control their state or county policies. In return for a party's commitment to statewide operation, the State of Utah sanctions primary elections for the parties and provides state recognition of party decisions concerning the selection of candidates. *E.g.*, Utah Code Ann. §§ 20-4-1 to 20-4-9 *Supp.* 1971)."

CONCLUSIONS

The existing Illinois signature distribution requirement is a well reasoned enactment by the State legislature, intended and designed to effect equality in the electoral process, and not to impose an invidious discrimination.

Section 10-2 was expressly drafted to "pass muster" under the *Moore* v. *Ogilvie* standard, and to balance and weigh competing interests. It simply requires a new statewide party to organize in more than one county.

Unlike statutes requiring names from multiple counties, however sparse, the least populous Illinois counties do not have the power "completely to block" a nomination. Half the State population does reside in 101 counties.

Section 10-2 does not apply a "rigid, arbitrary formula" but reflects actual population distribution patterns, and assures that residents throughout the State have equal opportunity to be involved in statewide political party activities.

The Illinois statute screens out frivolous candidacies but does not make it "virtually impossible" for a new political party to appear on the statewide ballot, nor does it preclude minorities from access to the ballot.

The Illinois statutes does indeed further the legitimate State interest in "avoiding confusion, deception, and even frustration of the democratic process at the general election" so that "multifarious political associations with little or no popular support do not bemuse the electoral process."

Important Federal questions are raised which should be settled by this Court. For these reasons, Petitioners request that a Writ of Certiorari issue to review the decision of the Seventh Circuit Court of Appeals.

Respectfully submitted,

WILLIAM J. SCOTT,
Attorney General of Illinois,
160 North LaSalle,
Chicago, Illinois,

Attorney for Petitioners.

HERBERT LEE CAPLAN,
Assistant Attorney General,
312/793-3587

Of Counsel.

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM 1975

No.

STATE BOARD OF ELECTIONS FOR THE STATE OF ILLINOIS, and MICHAEL E. LAVELLE, DONALD W. ADAMS, FRANKLIN J. LUNDING, JR. and WILLIAM L. HARRIS, individually and as members of the State Board of Elections,

Petitioners,

VS.

THE COMMUNIST PARTY OF ILLINOIS; ISHMAEL FLORY, LORRAINE ASHBY, JOHN LUMPKIN, JAY SCHAFFNER, VALERIE WITZKOWSKI; and THEODORE PEARSON, individually and on behalf of all others similarly situated,

Respondents.

CERTIFICATE OF SERVICE

I, Herbert Lee Caplan, Assistant Illinois Attorney General, a member of the Bar of the Supreme Court of the United States, and counsel for the Petitioners, hereby certify that I have this 24th day of September, 1975, served three copies of the foregoing Petition for Writ of Certiorari upon Howard Eglit, Lance Haddix, Roger Baldwin Foundation of A.C.L.U., Inc., 5 South Wabash, Room 1516, Chicago, Illinois 60603 and John J. Abt, 299 Broadway, New York, New York 10007, by depositing same, first class postage prepaid, in the United States mail chute at 160 North LaSalle, Chicago, Illinois. All parties required to be served have been served.

HERBERT LEE CAPLAN.

APPENDICES

In The

United States Court of Appeals

For The Seventh Circuit

APPENDIX A

No. 74-1950

COMMUNIST PARTY OF ILLINOIS, ISHMAEL FLORY, LORRAINE ASHBY, JOHN LUMPKIN, JAY SCHAFFNER, VALERIE WITZKOWSKI; and THEODORE PEARSON, individually and on behalf of others similarly situated,

Plaintiffs-Appellees,

vs.

STATE BOARD OF ELECTIONS FOR THE STATE OF ILLINOIS, and MICHAEL L. LAVELLE, DONALD W. ADAMS, FRANKLIN W. LUNDING JR. and WILLIAM L. HARRIS, individually and as members of the State Board of Elections,

Defendants-Appellants.

Appeal from the United States District Court for the Northern District of Illinois, Eastern Division

No. 74 C 2470

William J. Lynch, *Judge.*

ARGUED APRIL 23, 1975 — DECIDED JUNE 27, 1975

Before SWYGERT and TONE, *Circuit Judges,* and GRANT, *Senior District Judge.**

---

*Senior District Judge Robert A. Grant of the Northern District of Indiana is sitting by designation.

SWYGERT, *Circuit Judge.* Plaintiffs, the Communist Party of Illinois, several of its candidates for state office in the November 5, 1974 general election, and a registered voter desiring to vote for these candidates, filed suit for declaratory and injunctive relief against the State Board of Election Commissioners for the State of Illinois[1] seeking to challenge the constitutionality of a section of the Illinois Election Code, Ill. Rev. Stat. ch. 46, § 10-2. This statute requires any political party seeking statewide ballot recognition to submit petitions containing not less than 25,000 signatures of qualified voters, not more than 13,000 of which may be counted from any one county.[2] Plaintiffs

---

1. Members of the Board are also sued, both individually and in their capacities as members of the State Board of Elections.

2. The statute provides in relevant part:

> Any group of persons hereafter desiring to form a new political party throughout the State, or in any political subdivision greater than a county and less than the State, shall file with the State Board of Elections a petition as hereinafter provided . . . Any such petition for the formation of a new political party throughout the State . . . shall declare as concisely as may be the intention of the signers thereof to form such new political party in the State, or in such district or political subdivision; shall state in not more than 5 words the name of such new political party; shall contain a complete list of candidates of such party for all offices to be filled in the State, or such district or political subdivision as the case may be, at the next ensuing election then to be held; and, if such new political party shall be formed for the entire State, shall be signed by not less than 25,000 qualified voters. Provided, that no more than 13,000 signatures from the same county may be counted toward the required total of 25,000 signatures.

sought an order declaring the requirement limiting the number of signatories from any one county void as being unconstitutional, and injunctive relief requiring the defendants to certify plaintiff candidates so that they would be listed on the statewide ballot for the November, 1974 general election.

Initially, the district court entered an order, declaring section 10-2 unconstitutional and denying defendants' motion to convene a three-judge court pursuant to 28 U.S.C. § 2281.[3] The court found section 10-2 violative of the Equal Protection and Due Process clauses of the Fourteenth Amendment in that it "discriminates against voters of the most populous county of the state in favor of voters in the less populous counties." The court found the claim that the section is not unconstitutional to be "Wholly without merit in light of a prior decision by a three-judge panel of this court declaring this same statutory provision unconstitutional in *Communist Party* v. *Ogilvie,* [357 F. Supp. 105 (N.D. Ill. 1972)], and other

---

3. Title 28 U.S.C. § 2281 provides:

> An interlocutory or permanent injunction restraining the enforcement, operation or execution of any State statute by restraining the action of any officer of such State in the enforcement or execution of such statute or of an order made by an administrative board or commission acting under State statutes, shall not be granted by any district court or judge thereof upon the ground of the unconstitutionality of such statute unless the application therefor is heard and determined by a district court of three judges under section 2284 of this title.

decisions declaring similar signature distribution requirements unconstitutional.'"[4] In response to this order, plaintiffs moved for injunctive relief. In a second order, the district court entered a preliminary injunction[5] directing

---

4. *Citing Williams* v. *Rhodes,* 393 U.S. 23 (1968); *Socialist Workers Party* v. *Hare,* 304 F. Supp. 534 (E.D. Mich. 1969); *Baird* v. *Davoren,* 346 F. Supp. 515 (D. Mass. 1972); *Socialist Labor Party* v. *Rhodes,* 318 F. Supp. 1262 (S.D. Ohio 1970); *Socialist Workers Party* v. *Rockefeller,* 314 F. Supp. 984 (S.D. N.Y. 1970).

5. The original declaratory order purports to grant plaintiffs' "motion for a preliminary injunction." It does no more than declare section 10-2 unconstitutional, however, and does not direct any state officers to take any specific action or to refrain from taking action. This initial order is dated September 11, 1974 as is the minute order which accompanies it. The second, or preliminary injunction order, is also dated September 11, 1974, but is accompanied by and attached to a notice of motion and motion which are file stamped September 12, 1974. The minute order accompanying these papers is dated September 12, 1974 as well. Thus, the injunctive order appears to have been prepared by plaintiffs and signed (after limiting alterations) by the district judge subsequent to the entry of the declaratory order and in reliance upon that original order.

That order granting injunctive relief reads:

PRELIMINARY INJUNCTION

> Having declared the county distribution signature requirement of Section 10-2 of Illinois Revised Statutes, Ch. 46, Sec. 10-2 (1973) unconstitutional as violative of the Equal Protection and Due Process Clauses of the Fourteenth Amendment to the Constitution of the United States by order of this Court, dated September 11, 1974, it is hereby ordered that defendants, their agents, and employees certify to the county clerk of each county in Illinois the plaintiff candidates as duty nominated candidates for election to state office in the general election to be held on November 5, 1974, if the only grounds for non-certification is failure to comply with the county distribution signature requirement.
>
> WILLIAM J. LYNCH,
> Judge, United States District Court
>
> Dated: September 11, 1974.

defendants to certify or cause to be certified plaintiff candidates for the November, 1974 election "if the only grounds for non-certification is failure to comply with the county distribution signature requirement."

Defendants appeal from both of these orders.[6] They contend that the issue of the constitutionality of section 10-2 has not been rendered "wholly without merit" by previous decisions, and that the district judge was therefore required by 28 U.S.C. § 2281 to convene a three-judge court in order to enjoin the enforcement of this state statute. They further contend that section 10-2 represents a non-arbitrary attempt by the State of Illinois to assure that residents throughout Illinois have "equal opportunity to be involved in statewide political party activi-

---

6. The notice of appeal refers to "the order entered by District Court Judge William J. Lynch on September 11, 1974 declaring the county signature requirement of § 10-2 of the Illinois Election Code unconstitutional and granting a preliminary injunction," apparently treating the two orders as a single, consolidated order.

ties," and to assure that "multifarious political associations with little or no popular support do not bemuse the electoral process." They say section 10-2 does not, therefore, offend the Fourteenth Amendment.

In our view, the issue of whether the district court in this case should have convened a three-judge court prior to issuing the preliminary injunctive order directing the Board not to enforce section 10-2 against these plaintiffs in the November, 1974 general election is moot. That election is over; plaintiffs and defendants here have little stake in litigating the technical question of whether the relief obtained in connection with that election had a proper jurisdictional base. Plaintiff candidates were in fact certified and listed on the November ballot. The past cannot be retraced. A decision on the section 2281 question would be purely advisory at this point and would not affect the rights of these litigants insofar as the in junctive order is concerned.[7] *See Oil Workers Unions* v.

---

7. Section 2281 does not apply to the declaratory order alone either by its terms or as construed. *Kennedy* v. *Mendoza-Martinez,* 372 U.S. 144, 153-55 (1963); *Sands* v. *Wainwright,* 491 F. 2d 417, 422 (5th Cir. 1973). And while defendants-appellants argue the applicability of this statute to the injunctive order, they urge at the same time that we may proceed directly to the merits of this case even if we should hold that the case should originally have been heard by three judges. In effect, they ask for an opinion without a remedy. Curiously, it is the plaintiffs-appellees who contend that a reversal on the three-judge court issue would require remand for convening of such a court. The problem with this contention is that at the present time no injunctive relief is sought by plaintiffs. The only viable issue at this stage is the question of the constitutionality of section 10-2 and this issue would not require a three-judge court, absent a request for injunction. A remand under these circumstances would indeed be pointless. The section 2281 question is therefore not "a real and substantial controversy admitting of specific relief through a decree of a conclusive character, as distinguished from an opinion advising what the law would be upon a hypothetical state of facts." *Aetna Life Ins. Co.* v. *Haworth,* 300 U.S. 227, 241 (1937).

Missouri, 361 U.S. 363, 366-68 (1960); *North Carolina* v. *Rice,* 404 U.S. 244, 245-46 (1971).

II

The heart of this case is the district court's order declaring section 10-2 unconstitutional. This determination was based on the reasoning contained in a previous decision of a three-judge district court in this circuit declaring section 10-2 unconstitutional as violative of the equal protection provision of the Fourteenth Amendment, *Socialist Workers Party* v. *Ogilvie, supra,* and on the rationale of the Supreme Court's decision in *Moore* v. *Ogilvie,* 394 U.S. 814 (1969) holding a predecessor of section 10-2 unconstitutional on the same ground. We believe this determination was correct.

In *Moore* the Supreme Court had before it a statutory provision requiring certain independent candidates, in order to be certified for the statewide ballot in Illinois, to obtain the signatures of 25,000 qualified voters, including signatures of two hundred voters from each of at least fifty of the one hundred and two Illinois counties. The provision had been specifically upheld in a previous decision of the Supreme Court in *Mac Dougall* v. *Green,* 335 U.S. 281 (1948). Expressly overruling *Mac Dougall* as being "out of line with our recent apportion-

ment cases," The Court in *Moore* framed the equal protection problem in these terms:

> It is no answer to the argument under the Equal Protection Clause that this law was designed to require statewide support for launching a new political party rather than support from a few localities. This law applies a rigid, arbitrary formula to sparsely settled counties and populous counties alike, contrary to the constitutional theme of equality among citizens in the exercise of their political rights The idea that one group can be granted greater voting strength than another is hostile to the one man, one vote basis of our representative government.
>
> Under this Illinois law the electorate in 49 of the counties which contain 93.4% of the registered voters may not form a new political party and place its candidates on the ballot. Yet 25,000 of the remaining 6.6% of registered voters properly distributed among the 53 remaining counties may form a new party to elect candidates to office. This law thus discriminates against the residents of the populous counties of the State in favor of rural sections. It, therefore, lacks the equality to which the exercise of political rights is entitled under the Fourteenth Amendment. 394 U.S. at 818-19.

Section 10-2 suffers the same constitutional defect. To paraphrase the Supreme Court in *Moore:* Under section 10-2 the entire electorate of Cook County, which represents 45% of all registered voters in Illinois, may not form a new political party and place its candidates on the ballot. Yet any 25,000 of the remaining 55% of registered voters properly distributed among the remaining 101 counties may form a new party to elect candidates to office. Put another way, the approximately 2,750,000 registered Illinois voters in urbanized Cook County do not have the power under

section 10-2 to create a statewide political party to protect their own peculiar interests, while 25,000 voters in any two or more counties in rural downstate Illinois may create such a party to protect their distinctly different, and often competing interests. This two-county requirement, like the fifty county requirement in *Moore,* "discriminates against the residents of the populous counties of the state in favor of rural sections."[8]

Given the fact that section 10-2 directly affects the fundamental right of a class of persons to "vote effectively" *Williams* v. *Rhodes,* 393 U.S. 23, 30-34 (1969),[9] the statute cannot stand unless it is necessary to advance a compelling state interest. *Id.* at 31. If other means exist which will

---

8. In their brief appellants urge us to consider the "realities of Illinois politics." They point out that

> [t]he State is organized into 102 counties. Of these, Cook County, i.e. "Chicago", is uniquely the most urbanized county, and contains approximately 50% of the total State population. The land area of the remaining 101 counties, typically referred to as "Downstate", is primarily agricultural, and contains the remaining 50% of the population. Appellants' brief at 5.

We recognize these "realities," but we do not see how they can help appellants in this case. Rather, they point out further the problem inherent in the two-county requirement: While the agricultural interest groups may create a special interest party entirely among their own constituents, the Cook County urban interest groups cannot, but must garner some forty-eight percent of their petition signatures from relatively rural Illinois counties.

9. "[T]he voters can assert their preferences only through candidates or parties or both." *Lubin* v. *Parrish,* 415 U.S. 709, 716 (1974).

adequately protect the state interest involved, but which will be less intrusive on the right to vote or less discriminatory in effect, such other means must be employed and section 10-2 must be struck down. See *Dunn* v. *Blumstein,* 405 U.S. 330, 334-43 (1972).

In their brief, defendants contend that the county distribution requirement is necessary to prevent numerous parties with negligible popular support from overcrowding the ballot and thereby confusing and demeaning the statewide electoral process. In order to achieve this goal, defendants urge, with considerable candor, that the strength of the concentrated "Chicago" (Cook County) vote must be diluted:

> Politics is access to voters. The solicitation of nominating signatures and distribution of campaign literature are facilitated where the population is concentrated. A single high-rise apartment building in Chicago may contain more people than a county town, and several city blocks may contain more people than entire "downstate" counties. A Chicago precinct captain can personally contact more voters in an hour than his downstate counterpart may be able to reach in days of effort.
>
> Thus, a Chicago based, would-be new political party approaches any statewide election with an advantage that simply does not exist elsewhere in the State, and petition efforts, oherwise equal, produce greaer results in "Chicago."
>
> Consequently, minority parties from "Chicago" ab initio enjoy greater access to the ballot, and it is the vote effectiveness of downstate voters which is diluted by the demographic realities. Without some regulation, Chicago fringe candidates would easily flood the ballot.
>
> Balancing this inequality is the object of the signature distribution requirements of § 10-2. Appellants' brief at 10.

Assuming that a compelling need exists in Illinois to "protect" the integrity of its political processes from frivolous or fraudulent candidacies" *Bullock* v. *Carter,* 405 U.S. 134, 145 (1972), we cannot see how this interest is tied by necessity to a discriminatory diminution of the power of the individual voter in Cook County, or any other urbanized county. Similarly, if there is a permissible and compelling state interest in limiting the total number of candidates or parties on the statewide ballot independent of the question of the seriousness or legitimacy of such candidates or parties,[10] some method is surely available which will serve the interest without making the effectiveness of an Illinois citizen's electoral power depend on his geographical location within that state.

We do not, of course, suggest what means Illinois may employ to serve its interest in maintaining the integrity of its electoral process. We hold only that the county distribution requirement of section 10-2 of the Illinois Election Code, like its predecessor, "lacks the equality to

---

10. *See Generally Lubin* v. *Parrish,* 415 U.S. 709, 715-19 (1974) suggesting that the constitutionally permissible interest of the state in avoiding "laundry list" ballots is limited to the interest in screening out frivolous, nonserious parties or candidates, or those without "some reasonable quantum of voter support." *See also American Party of Texas* v. *White,* 415 U.S. 767, 781-82 (1974): "Of course, what is demanded may not be so excessive or impractical as to be in reality a mere device to always, or almost always, exclude parties with significant support from the ballot."

which the exercise of political rights is entitled under the Fourteenth Amendment." *Moore* v. *Ogilvie* at 819. The order of the district court declaring section 10-2 unconstitutional is therefore affirmed.

A true Copy:

Teste:

.....

Clerk of the United States Court of Appeals for the Seventh Circuit

APPENDIX B

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

THE COMMUNIST PARTY OF ILLINOIS; ISHMAEL FLORY, LORRAINE ASHBY, JOHN LUMPKIN, JAY SCHAFFNER, VALERIE WITZKOWSKI; and THEODORE PEARSON, individually and on behalf of all others similarly situated,

Plaintiffs,

v.

STATE BOARD OF ELECTIONS FOR THE STATE OF ILLINOIS, and MICHAEL E. LAVELLE, DONALD W. ADAMS, FRANKLIN J. LUNDING, JR., and WILLIAM L. HARRIS, individually and as members of the State Board of Elections,

Defendants.

No. 74 C 2470

ORDER

1. Plaintiff's motion for a preliminary injunction declaring the "signature distribution requirement" contained in Section 10-2 of the Illinois Election Code, Ill. Rev. Stat. 1973, Chap. 46, Sec. 10-2, unconstitutional is hereby granted. The Court finds that the "signature distribution

requirement'' constitutes an arbitrary formula which grants one group greater voting strength than another and discriminates against voters of the most populous county of the state in favor of voters in the less populous counties. *Communist Party of Illinois* v. *Ogilvie,* 357 F. Supp. 105 (N.D. Ill. 1972). See also *Moore* v. *Ogilvie,* 394 U.S. 814 (1969). The statutory provision challenged here offends the one man, one vote principle that is the basis of our representative form of government and accordingly the requirement must be struck down as violative of the Equal Protection Clause and the Due Process Clause of the Fourteenth Amendment.

2. Defendants' motion to convene a three-judge court is hereby denied. The Court finds no necessity to convene a three-judge panel as the claim that the statute is not unconstitutional is wholly without merit in light of a prior decision by a three-judge panel of this Court declaring this same statutory provision unconstitutional in *Communist Party* v. *Ogilvie, supra,* and other decisions declaring similar signature distribution requirements unconstitutional. *Williams* v. *Rhodes,* 393 U.S. 23 (1968); *Socialist Workers Party* v. *Hare,* 304 F. Supp. 534 (E.D. Mich. 1969); *Baird* v. *Davoren,* 346 F. Supp. 515 (D. Mass. 1972); *Socialist Labor Party* v. *Rhodes,* 318 F. Supp. 1262 (S.D. Ohio 1970); *Socialist Workers Party* v. *Rockefeller,* 314 F. Supp. 984 (S.D. N.Y. 1970).

WILLIAM J. LYNCH,
Judge, United States District Court.

Dated: September 11, 1974.

PRELIMINARY INJUNCTION

Having declared the county distribution signature requirement of Section 10-2 of Illinois Revised Statutes,

Ch. 46, Sec. 10-2 (1973) unconstitutional as violative of the Equal Protection and Due Process Clauses of the Fourteenth Amendment to the Constitution of the United States by order of this Court, dated September 11, 1974, it is hereby ordered that defendants, their agents, and employees certify to the county clerk of each county in Illinois the plaintiff candidates as duly nominated candidates for election to state office in the general election to be held on November 5, 1974, if the only grounds for non-certification is failure to comply with the county distribution signature requirement.

WILLIAM J. LYNCH,
Judge, United States District Court.

Dated: September 11, 1974:

APPENDIX C

The COMMUNIST PARTY OF ILLINOIS, et al.,

Plaintiffs,

v.

RICHARD B. OGILVIE et al.,

Defendants.

No. 72 C 915

United States District Court,
N. D. Illinois, E. D.

Sept. 21, 1972

Before CUMMINGS, Circuit Judge, and MAROVITZ and McMILLEN, District Judges.

PRELIMINARY INJUNCTION

PER CURIAM.

This cause came on to be heard on plaintiffs' motion for a preliminary injunction and the court having considered the complaint, the affidavits provided by plaintiffs and documents in opposition thereto, and having heard argument in open court, this court states as follows:

FINDINGS OF FACT

1. Plaintiffs are the Communist Party of Illinois, its candidates for public office for the election to be held on November 7, 1972 and the Reverend William E. Hogan, an Illinois voter suing on his own behalf and on behalf of other Illinois voters who wish to vote for candidates of the Communist Party of Illinois in the November 1972 election.

2. Defendants are Richard B. Ogilvie, individually and as Governor of the State of Illinois; John W. Lewis, individually and as Secretary of State of the State of Illinois; William J. Scott, individually and as Attorney General of the State of Illinois; Michael J. Howlett, individually and as Auditor of Public Accounts; Alan J. Dixon, individually and as State Treasurer of the State of Illinois; James Roman, individually and as Chairman of the State Central Committee of the Democrat c Party of Illinois; Victor Smith, individually and as Chairman of the State Central Committee of the Republican Party of Illinois. Together they compose the State Electoral Board of the State of Illinois.
3. On or about January 31, 1972, plaintiff Communist Party of Illinois, in order to form itself as a new political party throughout Illinois, nominated plaintiff candidates to seek election in the 1972 general election and printed and distributed new political party petitions to gather the requisite number of signatures.
4. As of August 3, 1972, plaintiffs and their agents collected a total of 33,027 signatures, of which 26,735 were by voters residing in Cook County (a county containing slightly more than one-half the registered voters in the state of Illinois) and 6,292 were by voters residing outside of Cook County (containing slightly less than one-half of all the registered voters in the State of Illinois.)
5. On August 3, 1972, plaintiffs tendered their petitions to the Index Division of the Office of the Secretary of State and their tender was refused pursuant to a letter from Don Ed, Supervisor of the Index Division stating *inter alia:* Upon scanning the petition, it appears to meet with statutory requirements with the following exception: the petition was not accompanied with the so-called loyalty oaths for state offices as provided in section 7-10.1 of the Illinois Election Code. Therefore, the petition was not accepted for filing.

6. On August 8, 1972, the defendants were ordered by the Honorable Hubert L. Will to receive the petitions *nunc pro tunc* as of August 3, 1972. The petitions were tendered and received pursuant to that order.
7. On August 12, 1972, a challenge was filed to the Communist Party of Illinois new party petitions on grounds that they were not accompanied by loyalty oaths.
8. On September 6, 1972, a meeting of the Electoral Board was convened and sustained the objection to the validity of the petitions on ground that no loyalty oath had been filed.
9. On September 7, 1972, the Electoral Board reconvened and voted to deny certification of the Communist Party as a new political party so that its candidates would not be placed on the ballot. It based its ruling on the failure of the candidates of the Communist Party to sign loyalty oaths as required by Ch. 46, § 7-10.1, Ill. Rev. Stat. 1971 and failure to comply with the county signature requirement of Ch. 46, § 10-2, Ill. Rev. Stat. 1971

CONCLUSIONS OF LAW

10. This court has jurisdiction pursuant to Title 28 U.S.C. §§ 1331, 1343, 2201, 2202, 2281 and 2284 and Title 42 U.S.C. § 1983.
11. The loyalty oath requirement provided for by Ch. 46, § 7-10.1 and 10-5 is invalid in that:
    a. It is vague and overbroad on its face and therefore unconstitutional under the First and Fourteenth Amendments to the United States Constitution; See Livingston v. Ogilvie, 43 Ill. 2d 9, 250 N.E. 2d 138 (1969) (identical oath for candidates to the Illinois Constitutional Convention of 1969 held unconstitutional); Krehbiel v. Board of Education, 309 F. Supp. 630 (N.D. Ill. 1969) (three-judge court) (similar oath for Illinois teachers held unconstitutional); Connell v. Higginbotham, 305 F. Supp. 445 (M.D. Fla. 1969) affirmed in part, reversed in part, 403 U.S. 207, 91 S. Ct. 1772, 29 L. Ed. 2d 418; Socialist Workers Party v. Attorney General, 345 F. Supp. 1132 (S.D. Texas 1972). *See also* Elfbrandt v. Russell, 384 U.S. 11, 86 S. Ct. 1238, 16 L. Ed. 2d 321 (1966); Keyishian v. Board of Regents, 385 U.S. 589, 87 S. Ct. 675, 17 L. Ed. 2d 629 (1967); Whitehill v. Elkins, 389 U.S. 54, 88 S. Ct. 184, 19 L. Ed. 2d 228 (1967). Cole v. Richardson, 405 U.S. 676, 92 S. Ct. 1332, 31 L. Ed. 2d 593 (1972).

    b. The affirmation of citizenship of the United States and the State of Illinois being the only constitutionally valid portion of the oath as it now reads, no substantial purpose would be served by salvaging that portion of the oath alone in view of the fact that Ill. Rev. Stat. 1971, ch. 46, § 10-5(3) requires a statement of candidacy that contains an implicit affirmation of citizenship. See Livingston v. Ogilvie, supra (Ill. Sup. Ct made no attempt to salvage identical oath). In addition the practicalities of the situation militate against serving any portion of the oath since forcing the candidates of the petitioning party to sign an oath containing only the permissible clause, i.e. the affirmation of citizenship would involve delay where it cannot be justly tolerated in view of the imminence of the election. Once the election is over the state has ample opportunity to enact a permissible oath and invalidation of the whole oath in this instance will not determine any state interest in having some form of oath in the interim.
12. The County signature requirement of Ch. 46, § 10-2, Ill. Rev. Stat. 1971, permitting no more than 13,000 signatures of qualified voters from any one county

to be counted toward the total of 25,000 which are a prerequisite for recognition as a new political party, is a denial of equal protection guaranteed to voters by the Fourteenth Amendment in that it discriminates against voters of the most populous county of the state in favor of voters in the less populous counties. See Moore v. Ogilvie, 394 U.S. 814, 89 S. Ct. 1493, 23 L. Ed. 2d 1 (1969) (broader county-wide signature requirement in Illinois held unconstitutional); Socialist Labor Party v. Rhodes, 318 F. Supp. 1262, 1272 (S.D. Ohio 1970); Socialist Workers Party v. Hare, 304 F. Supp. 534, 536 (E.D. Mich. 1969); Baird v. Davoren, 346 F. Supp. 515 (D. Mass. 1972).

13. Unless this court restrains the enforcement and implementation of the aforementioned unconstitutional statutory provisions, the plaintiffs will suffer serious and irreparable injury in that they will be prevented from qualifying for recognition as a new political party and will be deprived of a place on the ballot in the November 7, 1972 general election without adequate remedy at law.

It is therefore ordered, that defendants, their agents, servants, employees and attorneys and all persons in active concert and participation with them shall immediately certify plaintiffs Communist Party of Illinois as a new political party and immediately certify plaintiff candidates to all of the Illinois county clerks to be placed on the ballot in time for the November 7, 1972 general election.

NOTE: In view of the fact that the printing of Illinois ballots for the November 7, 1972 election has been held up pending decision of this case and considering the very short period remaining before that election, this Court has not included a written Opinion so that the expeditious entry of the appropriate relief may be facilitated.

McMILLEN, District Judge (dissenting).

I respectfully dissent from Conclusions of Law 11(a), 12 and 13, and the preliminary injunction entered in the above case.

The loyalty oath required for statewide candidates in Illinois as I read it, complies substantially with the requirements of Cole v. Richardson, 405 U.S. 676, 92 S. Ct. 1332, 31 L. Ed. 2d 593 (April 8, 1972) and is permissible under these circumstances. It reads:

> I, ... do swear that I am a citizen of the United States and the State of Illinois, that I am not affiliated directly or indirectly with any communist organization or any communist front organization, or any foreign political agency, party, organization or government which advocates the overthrow of constitutional government by force or other means not permitted under the Constitution of the United States or the constitution of this State; that I do not directly or indirectly teach or advocate the overthrow of the government of the United States or of this State or any unlawful change in the form of the governments thereof by force or any unlawful means.
> [1971, Illinois Revised Statutes, Chapter 46, § 7-10.1]

Although this oath is not phrased or punctuated as precisely as we might prefer, its purport is clear enough and it should be construed to be constitutionally valid if possible. The extent that the Illinois version may go beyond the language specifically approved by the United States Supreme Court is a matter of semantics, not a matter of substance. As I understand the defendants' position, the oath is not required for candidates whose oath is prescribed by the Federal Constitution.

Furthermore, I believe that some geographical distribution of signatories on petitions is justified before a political

party is entitled to participate in a state-wide election. The distribution required by the Illinois statute is a reasonable one, fulfilling the legislature's apparent desire not to saddle the citizens of the entire state with unjustified expenses, complexity of issues, and burdens on election judges. Giving voters outside of Cook County some voice in this determination conforms with, rather than violates, the principles of one-man one-vote recognized by the majority of the Supreme Court in Moore v. Ogilvie, 394 U.S. 814, 89 S. Ct. 1493, 23 L. Ed. 2d 1 (1969).

APPENDIX D

ILLINOIS GENERAL ELECTION
NOVEMBER 5, 1974
SUMMARY OF GENERAL VOTE

Office, Party and Candidate	Plurality	Total In State	Outside Cook County	Cook County	Counties Carried
UNITED STATES SENATOR					
Democratic ..... Adlai E. Stevenson	726,612	1,811,496	873,173	938,323	78
Republican ..... George M. Burditt	.....	1,084,884	675,104	409,780	
Socialist Workers Party ..... Edward Thomas Heisler	.....	12,413	5,623	6,790	
Communist Party ..... Ishmael Flory	.....	5,873	1,648	4,225	
STATE TREASURER					
Democratic ..... Alan J. Dixon	842,216	1,796,144	897,944	898,200	89
Republican ..... Harry Page	.....	953,928	602,635	351,293	
Socialist Workers Party ..... Suzanne Haig	.....	20,240	9,029	11,211	
Communist Party ..... Lorraine M. Ashby	.....	8,070	2,631	5,439	
TRUSTEES OF THE UNIVERSITY OF ILLINOIS					
Democratic ..... Nina T. Shepherd	.....	1,535,875	757,073	778,802	
Arthur R. Velasquez	.....	1,378,577	662,782	715,795	
Robert J. Lenz	.....	1,409,944	709,944	700,000	
Republican ..... Timothy W. Swain	.....	1,151,284	701,094	450,190	
Russell W. Steger	.....	1,107,032	683,070	423,962	
Socialist Workers Party ..... Gardner W. Heidrick	.....	1,042,875	640,904	401,971	
Antonio DeLeon	.....	34,165	11,142	23,023	
Mary R. Wisner	.....	50,752	18,952	31,800	
Brian Williams	.....	34,376	12,107	22,269	
Communist Party ..... John R. Lumpkin	.....	17,256	5,852	11,404	
Jay Schaffner	.....	17,099	6,103	10,996	
Valerie Witzkowski	.....	27,006	9,358	17,648	

VOTE FOR UNITED STATES SENATOR— NOVEMBER 5, 1974

Counties	Plurality	Democratic — Adlai E. Stevenson	Republican — George M. Burdit	Socialist Workers Party — Edward Thomas Heisler	Communist Party — Ishmael Flory
Adams	D 3,888	11,959	8,071	60	50
Alexander	D 874	2,819	1,945	39	3
Bond	D 678	2,995	2,317	7	4
Boone	R 22	2,732	2,754	16	3
Brown	D 764	1,701	937	2	1
Bureau	D 1,452	8,072	6,620	0	0
Calhoun	D 629	1,541	912	6	3
Carroll	D 50	3,397	3,347	10	0
Cass	D 1,151	3,046	1,895	3	1
Champaign	D 3,994	20,808	16,814	745	112
Christian	D 3,743	7,237	3,494	16	6
Clark	D 47	3,349	3,302	7	0
Clay	D 403	3,387	2,984	13	2
Clinton	D 2,593	6,386	3,793	9	2
Coles	D 972	7,055	6,083	43	12
Cook	D 528,543	938,323	409,780	6,790	4,225
Crawford	D 1,084	4,338	3,254	7	1
Cumberland	D 520	2,190	1,670	8	1
DeKalb	D 821	7,927	7,106	199	43
DeWitt	D 524	3,296	2,772	5	2
Douglas	D 112	3,240	3,128	7	2
DuPage	R 17,476	52,004	69,480	716	165
Edgar	D 692	4,652	3,960	6	0
Edwards	R 274	1,426	1,700	4	0
Effingham	D 1,269	5,184	3,915	9	5
Fayette	D 881	4,639	3,758	5	4
Ford	R 783	2,558	3,341	1	1
Franklin	D 5,365	9,136	3,771	32	17
Fulton	D 3,179	8,071	4,892	36	16
Gallatin	D 1,406	2,437	1,031	4	2
Greene	D 1,460	3,569	2,109	6	1
Grundy	D 776	5,416	4,640	19	4
Hamilton	D 580	2,559	1,979	11	4
Hancock	D 359	4,079	3,720	9	0
Hardin	D 244	1,499	1,255	7	1
Henderson	D 464	2,083	1,619	2	0
Henry	D 909	7,175	6,266	34	19
Iroquois	R 1,162	5,524	6,686	7	1
Jackson	D 5,223	10,949	5,726	148	108
Jasper	D 806	2,501	1,695	7	2
Jefferson	D 2,199	6,738	4,539	11	4
Jersey	D 1,478	4,137	2,659	13	1
JoDaviess	D 787	3,476	2,689	11	1
Johnson	R 164	1,623	1,787	9	2
Kane	R 2,205	23,007	25,212	266	96
Kankakee	D 1,999	15,592	13,593	157	22
Kendall	R 1,729	2,563	4,292	16	3
Knox	D 1,280	9,161	7,881	50	17
Lake	D 6,063	44,191	38,128	413	117
LaSalle	D 7,326	20,022	12,696	103	26
Lawrence	D 457	3,393	2,936	5	1
Lee	R 306	4,310	4,616	7	4
Livingston	R 1,224	4,823	6,047	11	7
Logan	R 80	4,818	4,898	9	2
Macon	D 10,204	19,772	9,568	69	11
Macoupin	D 5,044	10,775	5,731	36	8
Madison	D 20,181	35,231	15,050	116	42
Marion	D 3,489	8,321	4,832	27	7
Marshall	D 400	2,802	2,402	2	0
Mason	D 1,084	3,286	2,202	3	0

VOTE FOR UNITED STATES SENATOR—NOVEMBER 5, 1974—Concluded

Counties	Plurality	Democratic — Adlai E. Stevenson	Republican — George M. Burdit	Socialist Workers Party — Edward Thomas Heisler	Communist Party — Ishmael Flory
Massac	R 71	2,514	2,585	9	4
McDonough	R 896	3,773	4,669	22	3
McHenry	R 1,001	14,881	15,882	157	44
McLean	R 2,266	11,803	14,069	97	21
Menard	R 172	1,974	2,146	8	5
Mercer	D 775	3,457	2,682	3	0
Monroe	D 701	4,231	3,530	8	1
Montgomery	D 2,625	7,345	4,720	12	4
Morgan	D 1,384	6,751	5,367	8	5
Moultrie	D 908	2,729	1,821	15	2
Ogle	R 599	5,262	5,861	27	5
Peoria	D 8,003	28,604	20,601	159	42
Perry	D 1,889	5,491	3,602	6	2
Piatt	D 532	3,334	2,802	4	3
Pike	D 1,484	4,402	2,918	1	3
Pope	R 71	867	938	1	1
Pulaski	D 549	2,021	1,472	5	4
Putnam	D 683	1,688	1,005	3	1
Randolph	D 3,490	8,538	5,048	15	5
Richland	D 777	3,556	2,779	13	2
Rock Island	D 13,379	28,282	14,903	106	64
Saline	D 2,127	6,239	4,112	1	0
Sangamon	D 5,423	30,894	25,471	250	148
Schuyler	D 270	2,099	1,829	15	0
Scott	D 349	1,563	1,214	4	3
Shelby	D 2,081	5,268	3,187	8	1
Stark	R 81	1,313	1,394	5	1
St. Clair	D 27,979	45,439	17,460	257	75
Stephenson	D 851	5,712	4,861	53	10
Tazewell	D 5,924	18,190	12,266	65	14
Union	D 1,924	3,977	2,053	0	0
Vermilion	D 5,464	16,436	10,972	93	50
Wabash	D 717	3,063	2,346	5	0
Warren	R 429	3,144	3,573	10	4
Washington	R 371	2,763	3,134	9	1
Wayne	R 619	3,371	3,990	6	0
White	D 973	4,662	3,689	15	3
Whiteside	R 296	7,530	7,826	56	9
Will	D 11,085	35,234	24,149	245	63
Williamson	D 3,698	10,630	6,932	33	15
Winnebago	D 15,183	39,505	24,322	208	58
Woodford	R 764	3,661	4,425	7	3
TOTAL	D 726,612	1,811,496	1,084,884	12,413	5,873
Downstate	D 198,069	873,173	675,104	5,623	1,648
Cook County	D 528,543	938,323	409,780	6,790	4,225

Plurality is computed from the Democratic and Republican votes.

BEST COPY AVAILABLE

VOTE FOR STATE TREASURER—
NOVEMBER 5, 1974

Counties		Plurality	Democratic	Republican	Socialist Workers Party	Communist Party
			Alan J. Dixon	Harry Page	Suzanne Haig	Lorraine M. Ashby
Adams	D	6,363	13,090	6,727	71	55
Alexander	D	668	2,572	1,904	27	10
Bond	D	614	2,818	2,204	12	1
Boone	D	377	2,877	2,500	37	2
Brown	D	905	1,721	816	7	1
Bureau	D	1,397	7,724	6,327	0	0
Calhoun	D	498	1,385	887	7	3
Carroll	D	144	3,252	3,108	7	5
Cass	D	1,515	3,143	1,628	5	1
Champaign	D	8,076	22,690	14,614	649	162
Christian	D	4,351	7,341	2,990	16	7
Clark	D	437	3,428	2,991	6	0
Clay	D	281	3,163	2,882	8	4
Clinton	D	2,998	6,414	3,416	11	5
Coles	D	2,158	7,463	5,305	89	43
Cook	D	546,907	898,200	351,293	1,211	5,439
Crawford	D	822	4,074	3,252	5	5
Cumberland	D	681	2,168	1,487	10	8
DeKalb	D	1,929	8,365	6,436	208	48
DeWitt	D	1,064	3,473	2,409	6	5
Douglas	D	447	3,323	2,876	3	4
DuPage	R	883	59,325	60,208	1,422	344
Edgar	D	781	4,532	3,751	9	4
Edwards	R	443	1,238	1,681	3	1
Effingham	D	1,653	5,170	3,517	10	7
Fayette	D	1,121	4,585	3,464	12	5
Ford	R	384	2,730	3,114	3	1
Franklin	D	4,908	8,704	3,796	59	27
Fulton	D	4,223	8,463	4,240	65	34
Gallatin	D	1,251	2,222	971	7	3
Greene	D	829	3,099	2,270	8	3
Grundy	D	1,153	5,411	4,258	25	14
Hamilton	D	631	2,448	1,817	12	9
Hancock	D	78	3,772	3,694	15	5
Hardin	D	106	1,355	1,249	7	3
Henderson	D	243	1,923	1,680	5	0
Henry	D	880	7,035	6,155	62	19
Iroquois	D	126	5,791	5,665	10	0
Jackson	D	5,388	10,759	5,371	342	96
Jasper	D	864	2,442	1,578	7	2
Jefferson	D	2,508	6,466	3,958	10	6
Jersey	D	1,383	3,906	2,523	8	4
JoDaviess	R	36	2,759	2,795	19	4
Johnson	R	349	1,458	1,807	9	1
Kane	D	3,203	25,309	22,106	513	151
Kankakee	D	5,156	16,884	11,728	181	34
Kendall	R	878	2,884	3,762	17	1
Knox	D	2,584	9,671	7,087	84	31
Lake	D	12,890	46,750	33,860	845	159
LaSalle	D	8,561	20,254	11,693	176	32
Lawrence	D	460	3,280	2,820	11	2
Lee	D	334	4,498	4,164	19	9
Livingston	R	312	4,989	5,301	7	3
Logan	D	1,235	5,364	4,129	5	5
Macon	D	11,350	20,326	8,976	107	28
Macoupin	D	4,975	10,578	5,603	75	21
Madison	D	19,810	32,860	13,050	215	53
Marion	D	3,361	8,102	4,741	53	11
Marshall	D	736	2,872	2,136	7	0
Mason	D	1,647	3,493	1,846	4	0

VOTE FOR STATE TREASURER—
NOVEMBER 5, 1974—Concluded

Counties		Plurality	Democratic	Republican	Socialist Workers Party	Communist Party
			Alan J. Dixon	Harry Page	Suzanne Haig	Lorraine M. Ashby
Massac	R	186	2,263	2,449	10	10
McDonough	D	135	4,178	4,043	31	3
McHenry	D	332	15,049	14,717	393	114
McLean	D	4,038	14,725	10,687	161	31
Menard	D	245	2,163	1,918	10	4
Mercer	D	715	3,295	2,580	4	1
Monroe	D	1,201	4,401	3,200	14	4
Montgomery	D	2,918	7,258	4,340	9	5
Morgan	D	2,448	7,166	4,718	9	5
Moultrie	D	1,148	2,751	1,603	14	6
Ogle	D	7	5,362	5,355	65	13
Peoria	D	13,268	30,662	17,394	275	80
Perry	D	1,687	5,174	3,487	9	5
Piatt	D	892	3,417	2,525	7	5
Pike	D	1,305	4,130	2,825	3	2
Pope	R	169	761	930	1	1
Pulaski	D	396	1,857	1,461	3	3
Putnam	D	692	1,637	945	7	0
Randolph	D	3,346	8,151	4,805	20	15
Richland	D	562	3,254	2,692	18	7
Rock Island	D	13,236	26,938	13,702	294	93
Saline	D	1,710	5,716	4,006	4	2
Sangamon	D	10,538	32,881	22,343	436	159
Schuyler	D	348	2,093	1,745	7	3
Scott	D	293	1,490	1,197	6	5
Shelby	D	2,569	5,384	2,815	16	2
Stark	D	113	1,367	1,254	6	1
St. Clair	D	33,885	47,826	13,941	291	110
Stephenson	D	1,110	5,715	4,605	84	46
Tazewell	D	8,750	19,143	10,393	111	40
Union	D	1,642	3,622	1,980	0	0
Vermilion	D	7,717	17,268	9,551	118	70
Wabash	D	621	2,883	2,262	8	2
Warren	R	531	2,957	3,488	16	3
Washington	R	246	2,718	2,964	9	2
Wayne	R	767	3,162	3,929	5	2
White	D	1,048	4,398	3,350	14	11
Whiteside	R	511	7,192	7,703	61	25
Will	D	17,544	37,862	20,318	460	98
Williamson	D	2,992	9,505	6,513	51	25
Winnebago	D	21,392	42,049	20,657	330	114
Woodford	D	8	3,930	3,922	7	3
TOTAL	D	842,216	1,796,144	953,928	20,240	8,070
Downstate	D	295,309	897,944	602,635	9,029	2,631
Cook County	D	546,907	898,200	351,293	11,211	5,439

Plurality is computed from the Democratic and Republican votes.

VOTE FOR TRUSTEES OF THE UNIVERSITY OF ILLINOIS—NOVEMBER 5, 1974

Counties	Democratic			Republican			Socialist Workers Party			Communist Party		
	Nina T. Shepherd	Arthur R. Velasquez	Robert J. Lenz	Timothy W. Swain	Russell W. Steger	Gardner W. Heidrick	Antonio DeLeon	Mary R. Wismer	Brian Williams	John R. Lumpkin	Jay Schaffner	Valerie Witzkowski
Adams	9,396	7,702	9,068	9,041	9,042	8,205	131	208	190	91	126	110
Alexander	2,331	2,180	2,262	1,744	1,747	1,680	22	39	42	12	8	6
Bond	2,635	2,492	2,541	2,142	2,124	2,118	7	8	9	2	2	2
Boone	2,155	1,740	1,912	2,921	2,827	2,679	31	75	47	17	18	22
Brown	1,463	1,351	1,406	867	866	766	3	6	9	2	5	2
Bureau	6,403	5,860	6,082	7,039	7,030	6,867	0	0	0	0	0	0
Calhoun	1,266	1,198	1,258	837	857	821	3	8	6	5	3	6
Carroll	2,766	2,519	2,629	3,334	3,363	3,294	10	18	13	1	6	4
Cass	2,563	2,375	2,483	1,762	1,725	1,617	2	8	3	4	2	3
Champaign	18,121	13,853	15,248	19,759	19,162	17,000	778	1,344	802	510	376	828
Christian	6,831	6,422	6,621	3,220	3,267	3,109	20	31	22	17	14	15
Clark	3,252	3,057	3,151	2,977	2,935	2,910	8	8	7	2	1	0
Clay	2,947	2,671	2,772	2,671	2,674	2,603	8	15	17	10	8	6
Clinton	5,295	4,900	5,038	3,477	3,512	3,466	11	16	18	4	8	6
Coles	6,150	5,849	5,529	5,840	5,970	5,047	252	477	208	346	157	121
Cook	778,802	715,795	700,000	450,190	423,962	401,971	23,023	31,600	22,269	11,404	10,996	17,648
Crawford	3,905	3,661	3,776	3,307	3,340	3,253	9	8	14	7	5	3
Cumberland	2,033	1,855	1,927	1,547	1,581	1,509	7	15	19	8	5	5
DeKalb	6,363	5,388	5,564	7,751	7,637	7,151	310	463	344	114	111	142
DeWitt	2,744	2,280	2,782	2,712	2,689	2,586	4	12	12	4	6	6
Douglas	2,739	2,464	2,668	3,293	3,385	3,206	9	10	11	9	7	5
DuPage	51,451	41,139	42,000	72,641	68,352	64,199	1,429	2,954	1,360	636	770	1,896
Edgar	4,169	3,808	3,965	3,829	3,848	3,737	9	13	10	1	1	6
Edwards	1,188	1,077	1,167	1,534	1,552	1,539	2	2	4	0	1	1
Effingham	4,137	3,681	3,891	3,249	3,299	3,093	11	17	25	10	8	9
Fayette	4,282	4,110	4,220	3,441	3,475	3,413	6	13	12	4	5	5
Ford	1,999	1,786	1,945	3,541	3,547	3,435	3	6	7	2	3	2
Franklin	7,815	7,238	7,417	4,127	3,443	3,214	65	86	89	48	33	45
Fulton	7,242	6,218	6,730	5,194	4,756	4,432	60	119	78	57	46	51
Gallatin	2,097	1,988	2,037	981	979	959	5	14	9	3	5	3
Greene	3,065	2,780	2,893	2,129	2,014	1,924	10	16	11	8	2	2
Grundy	4,516	4,049	4,295	4,629	4,659	4,451	25	35	41	14	12	22
Hamilton	2,244	2,093	2,151	1,775	1,773	1,723	8	14	20	11	12	11
Hancock	2,921	2,607	2,794	3,606	3,563	3,377	9	17	16	2	5	4
Hardin	1,198	1,086	1,121	1,094	1,068	1,037	8	9	9	3	2	6
Henderson	1,770	1,637	1,719	1,698	1,710	1,659	4	11	4	3	3	0
Henry	6,007	5,296	5,594	7,147	7,026	6,677	63	97	73	32	33	41
Iroquois	4,638	4,177	4,645	6,511	6,530	6,272	10	15	12	0	3	0
Jackson	8,891	8,032	8,454	5,903	5,864	5,424	415	599	415	282	280	385
Jasper	2,245	2,073	2,168	1,530	1,583	1,518	7	9	5	0	0	1
Jefferson	5,910	5,465	5,770	3,868	3,847	3,757	19	20	20	9	11	10
Jersey	3,631	3,294	3,602	2,571	2,545	2,434	10	18	9	5	3	0
Jo Daviess	2,259	1,939	2,052	2,561	2,573	2,484	9	18	14	1	1	5
Johnson	1,349	1,251	1,316	1,661	1,701	1,630	3	12	5	4	2	4
Kane	21,344	17,022	17,714	25,850	24,997	22,888	660	1,319	655	310	412	720
Kankakee	13,954	13,297	14,019	14,360	14,192	13,586	128	154	167	61	55	73
Kendall	2,254	1,926	2,019	4,270	4,284	4,160	19	30	23	3	3	3
Knox	8,203	7,200	7,817	8,017	7,903	7,424	115	159	122	61	60	61
Lake	40,234	32,418	33,591	40,183	40,286	35,707	1,154	2,081	960	433	544	965
LaSalle	17,746	15,467	16,684	13,367	12,729	11,940	158	259	214	65	72	94
Lawrence	3,076	2,700	2,856	2,725	2,759	2,646	13	10	17	6	8	3
Lee	3,392	3,173	3,060	4,683	4,703	4,306	60	176	77	39	78	39
Livingston	4,017	3,609	3,927	5,973	5,921	5,708	12	14	13	5	5	9
Logan	3,788	3,246	4,233	4,810	4,778	4,407	9	15	11	5	2	5
Macon	16,705	14,756	16,244	11,332	11,468	10,238	197	357	230	109	70	100
Macoupin	9,853	8,822	9,270	5,538	5,586	5,161	174	209	140	98	111	118
Madison	31,555	28,929	30,600	14,201	14,615	13,813	259	334	272	109	96	130
Marion	7,611	6,789	7,114	4,749	4,661	4,425	62	111	87	31	36	43
Marshall	2,347	2,113	2,512	2,610	2,476	2,326	2	9	4	0	0	0
Mason	2,851	2,629	2,832	2,173	2,098	2,019	5	8	6	1	2	3
Massac	2,051	1,860	1,947	2,278	2,229	2,213	12	19	17	10	13	8
McDonough	3,118	2,774	2,908	4,755	4,562	4,425	51	66	49	11	11	23
McHenry	12,283	9,930	10,523	16,578	16,250	15,374	292	481	322	98	119	160
McLean	10,397	7,743	12,410	14,513	12,994	12,111	208	354	225	88	81	118
Menard	1,695	1,507	1,675	2,070	2,077	1,975	12	13	11	4	4	6
Mercer	2,742	2,497	2,800	2,829	2,863	2,719	3	6	9	3	2	2
Monroe	3,446	3,206	3,287	3,345	3,415	3,302	11	24	22	4	7	8
Montgomery	6,688	6,293	6,489	4,381	4,410	4,272	13	16	10	3	2	5
Morgan	5,807	4,981	5,151	5,790	5,591	5,171	27	30	20	8	13	13
Moultrie	2,337	2,151	2,287	1,761	1,795	1,706	9	21	17	9	5	7
Ogle	3,670	2,923	3,520	6,151	6,011	5,685	51	111	80	28	34	22
Peoria	23,845	18,273	22,106	27,555	21,852	20,329	377	923	428	214	332	489
Perry	4,358	4,068	4,218	3,346	3,234	3,175	10	12	12	2	4	6
Piatt	2,813	2,478	2,807	3,045	3,085	2,862	11	20	13	11	7	7
Pike	3,748	3,410	3,602	2,983	2,967	2,849	6	12	9	3	4	5
Pope	734	695	717	917	900	886	1	2	0	3	1	1
Pulaski	1,587	1,469	1,565	1,338	1,321	1,288	4	8	7	3	4	5
Putnam	1,252	1,167	1,281	1,154	1,078	1,031	7	11	8	1	2	2
Randolph	7,535	7,361	7,455	4,973	4,999	4,898	16	26	33	18	12	9
Richland	2,888	2,464	2,615	2,414	2,449	2,398	14	29	21	12	6	2
Rock Island	23,000	21,495	22,553	16,019	16,850	15,793	255	419	445	168	206	271
Saline	5,399	5,144	5,229	3,993	4,026	3,940	4	5	1	1	1	1
Sangamon	26,923	23,275	25,277	24,400	24,262	22,771	970	1,245	915	583	640	810
Schuyler	1,861	1,752	1,788	1,839	1,804	1,776	4	12	9	5	6	5
Scott	1,271	1,124	1,176	1,210	1,227	1,162	4	11	8	2	3	2
Shelby	4,675	4,411	4,709	2,969	3,033	2,865	16	23	26	4	2	2
Stark	1,123	998	1,101	1,431	1,409	1,340	4	4	5	2	2	2
St. Clair	38,933	36,891	38,408	17,787	18,798	17,582	332	498	427	158	185	241
Stephenson	4,584	3,787	4,486	5,357	5,169	4,857	99	225	132	76	85	123
Tazewell	16,083	13,021	15,504	14,251	12,743	11,443	130	235	189	69	47	72

VOTE FOR TRUSTEES OF THE UNIVERSITY OF ILLINOIS—NOVEMBER 5, 1974—Concluded

Counties	Democratic			Republican			Socialist Workers Party		Communist Party		
	Nina T. Shepherd	Arthur R. Velasquez	Robert J. Lenz	Timothy W. Swain	Russell W. Steger	Gardner W. Heidrick	Antonio DeLeon	Mary R. Wismer	John R. Lumpkin	Jay Schaffner	Valerie Wizkowski
Union	3,295	3,140	3,285	2,060	1,969	1,928	0	0	0	0	0
Vermilion	14,010	12,408	13,079	12,214	11,983	11,428	154	221	115	100	113
Wabash	2,594	2,197	2,338	1,999	1,939	1,915	9	18	12	9	3
Warren	2,597	2,370	2,516	3,722	3,755	3,646	14	16	2	4	3
Washington	2,326	2,220	2,258	3,065	2,982	2,960	9	10	1	2	5
Wayne	3,047	2,800	2,900	3,566	3,591	3,615	4	11	5	3	4
White	4,237	3,991	4,140	3,276	3,276	3,197	16	22	9	11	10
Whiteside	6,201	5,824	6,009	8,259	8,444	8,190	49	67	29	33	35
Will	32,671	28,833	30,606	25,396	25,271	22,935	475	660	161	140	230
Williamson	9,017	8,500	8,809	6,909	6,903	6,738	56	56	33	38	37
Winnebago	32,037	28,044	30,314	28,203	26,357	25,025	553	874	243	254	304
Woodford	2,883	2,570	2,941	4,691	4,301	4,100	8	8	5	6	5
TOTAL	1,535,875	1,378,577	1,409,944	1,151,284	1,107,032	1,042,875	34,165	50,752	17,256	17,099	27,006
Downstate	757,073	662,782	709,944	701,094	683,070	640,904	11,142	18,952	5,852	6,103	9,358
Cook County	778,802	715,795	700,000	450,190	423,962	401,971	23,023	31,800	11,404	10,996	17,648

APPENDIX E

ILLINOIS GENERAL ELECTION

NOVEMBER 7, 1972

SUMMARY OF GENERAL VOTE

Office, Party and Candidate		Plurality	Total in State	Outside Cook County	Cook County	Counties Carried
PRESIDENTIAL ELECTORS						
President and Vice-President						
Republican	Richard M. Nixon Spiro T. Agnew	874,707	2,788,179	1,553,872	1,234,307	101
Democratic	George McGovern R. Sargent Shriver		1,913,472	850,204	1,063,268	1
Socialist Labor	Louis Fisher Genevieve Gunderson		12,344	5,016	7,328	
Communist Party	Gus Hall Jarvis Tyner		4,541	1,419	3,122	
Write-ins:						
President	John G. Schmitz		2,471	1,230	1,241	
Vice-President	Thomas J. Anderson		1,026	767	259	
Other Write-ins						
President & Vice-President			348	348		
President			1,881	110	1,771	
Vice-President			311	93	218	
UNITED STATES SENATOR						
Republican	Charles H. Percy	1,146,047	2,867,078	1,572,507	1,294,571	102
Democratic	Roman Pucinski		1,721,031	766,463	954,568	
Socialist Labor	Edward C. Gross		13,384	5,659	7,725	
Communist Party	Arnold F. Becchetti		6,103	2,462	3,641	
Write-in	Dakin Williams		396	258	138	
Other Write-ins			388	66	322	
GOVERNOR AND LIEUTENANT GOVERNOR						
Republican	Richard B. Ogilvie James D. Nowlan		2,293,809	1,214,774	1,079,035	47
Democratic	Daniel Walker Neil F. Hartigan	77,494	2,371,303	1,192,857	1,178,446	55
Socialist Labor	George A. LaForest Stanley L. Prorok		7,966	2,709	5,257	
Communist Party	Ishmael Flory Theodore Pearson		4,592	1,361	3,231	
Write-ins:						
Governor			1,035	447	588	
Lieutenant Governor			239	180	59	
Other Write-ins:						
Governor & Lieutenant Governor			99	99		
ATTORNEY GENERAL						
Republican	William J. Scott	1,285,095	2,898,198	1,548,039	1,350,159	98
Democratic	Thomas G. Lyons		1,613,103	782,931	830,172	4
Socialist Labor	George P. Milonas		10,509	4,448	6,061	
Communist Party	Linda R. Appelhans		6,624	2,531	4,093	
Write-ins			402	181	221	

SUMMARY OF GENERAL VOTE—Concluded

Office, Party and Candidate		Plurality	Total in State	Outside Cook County	Cook County	Counties Carried
SECRETARY OF STATE						
Republican	Edmund J. Kucharski		2,187,544	1,175,789	1,011,755	48
Democratic	Michael J. Howlett	172,783	2,360,327	1,174,387	1,185,940	54
Socialist Labor	Elizabeth Schnur		12,419	5,877	6,542	
Communist Party	Frances Gabow		6,079	1,958	4,121	
Write-Ins			281	133	148	
COMPTROLLER						
Republican	George W. Lindberg	122,642	2,217,440	1,222,143	995,297	60
Democratic	Dean Barringer		2,094,798	1,024,515	1,070,283	42
Socialist Labor	Clarys L. Essex		12,797	6,061	6,736	
Communist Party	Nathan Sharpe		9,325	3,525	5,800	
Write-ins			287	164	123	
TRUSTEES OF THE UNIVERSITY OF ILLINOIS						
Republican	Ralph C. Hahn		2,204,218	1,244,229	959,989	
	Jane S. Hayes Rader		2,199,006	1,225,689	973,317	
	Park Livingston		2,168,248	1,202,796	965,452	
Democratic	Ellen Augustyn		2,014,589	939,574	1,075,015	
	Nicholas J. Bosen		1,974,000	911,395	1,062,605	
	Roger B. Pogue		1,938,476	916,428	1,022,048	
Socialist Labor	Edwin L. Williams		28,855	17,618	11,237	
	Gregory P. Lyngas		19,838	10,965	8,873	
	Henry Schilling		23,168	13,328	9,840	
Communist Party	Jack Kling		15,880	8,736	7,144	
	John Robert Lumpkin		17,865	10,026	7,839	
	William R. Fugate		15,699	8,832	6,867	
Write-ins			533	279	254	
Total Vote			4,880,213	2,466,888	2,381,325	
Presidential Elector Ballot			2,652	900	1,752	
Combined Total			4,882,865	2,499,788	2,383,077	

VOTE FOR GOVERNOR AND LIEUTENANT GOVERNOR—NOVEMBER 7, 1972

Counties	Plurality		Republican		Democratic		Socialist Labor		Communist				Write-Ins		Write-Ins		Other Write-Ins
			Richard B. Ogilvie and James D. Nowlan	Per Cent	Daniel Walker and Neil F. Hartigan	Per Cent	George A. LaForest and Stanley L. Prorok	Per Cent	Ishmael Flory and Theodore Pearson	Per Cent			Governor		Lieutenant Governor		Governor and Lt. Governor
Adams	3,440	R	16,078	56.0	13,238	46.1	32	.1	4	.0							
Alexander	392	D	2,871	46.5	3,263	52.8	36	.6	8	.1							
Bond	143	R	3,677	51.0	3,534	49.0	2	.0	20	.3							
Boone	435	R	5,292	52.0	4,857	47.8	20	.2	1	.0							
Brown	336	D	1,348	44.1	1,684	55.1	23	.8	1	.0							
Bureau	364	R	9,599	50.9	9,235	49.0	10	.1	6	.0							
Calhoun	401	D	1,301	43.2	1,702	56.5	8	.3	4	.1							
Carroll	1,150	R	4,907	56.5	3,757	43.3	14	.2	1	.0							
Cass	571	D	3,345	46.0	3,916	53.9	2	.0	1	.0							
Champaign	5,702	R	31,980	54.7	26,218	44.9	128	.2	90	.2			89		31		
Christian	3,430	D	7,222	40.3	10,652	59.5	25	.1	2	.0							
Clark	201	D	4,291	48.8	4,492	51.1	5	.0	4	.0							
Clay	448	D	3,851	47.2	4,299	52.7	2	.0	4	.0							
Clinton	1,901	D	5,354	42.4	7,255	57.5	6	.0	1	.0							
Coles	1,341	D	10,160	46.4	11,701	53.5	10	.0	4	.0							
Cook	(See below)	D	4,567	44.9	5,591	55.0	5	.0	2	.0							
Crawford	1,024	D	2,378	44.2	3,000	55.8	3	.0	1	.0							
Cumberland	624	D	14,792	47.2	16,652	52.6	43	.1	19	.1							
De Kalb	1,660	D	3,677	49.9	3,690	50.1	1	.0	4	.1							
De Witt	13	D															
Douglas	538	R	4,530	53.0	4,004	46.9	5	.1	2	.0							
DuPage	55,749	R	142,805	62.1	87,056	37.8	120	.1	37	.0							
Edgar	487	R	5,826	52.1	5,339	47.7	19	.2	4	.0							
Edwards	739	R	2,415	58.9	1,676	40.9	6	.1	1	.0							
Effingham	660	D	6,210	47.3	6,900	52.6	5	.0	6	.0							
Fayette	1,103	D	4,849	44.9	5,961	55.1	1	.0	1	.0							
Ford	1,952	R	4,769	62.8	2,817	37.1	2	.0	1	.0							
Franklin	5,004	D	6,907	36.6	11,911	63.2	15	.1	21	.1							
Fulton	1,121	D	9,454	47.1	10,577	52.7	44	.2	4	.0							
Gallatin	699	D	1,682	41.3	2,381	58.5	3	.1	2	.0							
Greene	716	D	3,420	45.1	4,136	54.6	18	.2	1	.0			3				
Grundy	1,106	R	6,700	54.5	5,595	45.5	16	.1	1	.0							
Hamilton	1,022	D	2,171	40.4	3,193	59.5	5	.0	1	.0							
Hancock	125	R	5,667	50.5	5,542	49.4	6	.1	1	.0							
Hardin	170	D	1,474	47.2	1,644	52.7	1	.0	1	.0							
Henderson	209	D	2,119	47.6	2,328	52.3	2	.0	1	.0							
Henry	497	D	11,391	48.9	11,888	51.0	8	.0	3	.0							
Iroquois	4,317	R	9,986	63.[illegible]	5,669	36.2	7	.0	12	.1			3				
Jackson	5,842	D	9,842	38.5	15,684	61.3	38	.1	1	.0							
Jasper	460	D	2,607	46.0	3,067	54.0	1	.0	1	.0			4				

Jefferson	D	2,802	6,586	41.2	9,388	58.7	24	.1	3	0				1
Jersey	D	1,220	3,644	42.8	4,864	57.1	2	.0	1	.0		10		
Jo Daviess	R	881	4,983	54.8	4,102	45.1	7	.0	1	.0				
Johnson	R	594	2,385	57.0	1,791	42.8	3	.0	2	.0				
Kane	R	11,232	51,649	56.0	40,417	43.8	99	.1	40	.0		43		
Kankakee	R	3,073	21,555	53.8	18,482	46.1	27	.0	6	.0		5		
Kendall	R	2,465	7,176	60.3	4,711	39.6	7	.0	2	.0				
Knox	R	902	13,750	51.6	12,848	48.2	31	.1	9	.0				29
Lake	R	10,924	75,057	53.8	64,133	46.0	176	.1	53	.0				
LaSalle	D	6,018	23,172	44.2	29,190	55.7	32	.0	4	.0				
Lawrence	D	600	3,868	46.4	4,468	53.6	6	.0	1	.0				12
Lee	R	445	7,976	51.4	7,531	48.6	3	.0						8
Livingston	R	2,851	10,581	57.8	7,730	42.2	7	.0	1	.0				
Logan	R	875	7,820	52.9	6,945	47.0	7	.0						
McDonough	R	1,363	8,581	54.2	7,218	45.6	17	.1	5	.0				
McHenry	R	11,701	29,879	62.1	18,178	37.8	42	.0	17	.0				
McLean	R	5,479	25,667	55.9	20,188	44.0	34	.0	13	.0				
Macon	D	1,550	24,495	48.4	26,045	51.5	50	.0	17	.0				
Macoupin	D	3,178	10,158	43.1	13,336	56.6	56	.2	4	.0				6
Madison	D	20,493	39,030	39.5	59,523	60.3	79	.0	68	.0		85	38	
Marion	D	2,891	7,481	41.9	10,372	58.1	6	.0	8	.0				
Marshall	R	523	3,563	53.9	3,040	46.0	7	.1						
Mason	D	889	3,473	44.3	4,362	55.6	4	.0	1	.0				
Massac	R	93	3,161	50.7	3,068	49.2	6	.0	1	.0				
Menard	R	429	2,848	54.0	2,419	45.9	5	.0						1
Mercer	D	991	3,982	44.5	4,973	55.5	2	.0						
Monroe	D	453	4,453	47.5	4,906	52.3	8	.0	7	.0				
Montgomery	D	2,560	6,739	42.0	9,299	57.9	14	.0						
Morgan	R	667	8,719	52.0	8,052	48.0	6	.0	1	.0				
Moultrie	D	438	2,940	46.5	3,378	53.4	1	.0	2	.0				
Ogle	R	1,883	10,130	55.1	8,247	44.8	21	.1						
Peoria	R	860	39,416	50.5	38,556	49.4	60	.0	31	.0		115	43	
Perry	D	1,623	4,809	42.8	6,432	57.2	2	.0	1	.0				
Piatt	R	666	4,093	54.3	3,427	45.5	11	.1						
Pike	D	323	4,809	48.2	5,132	51.5	30	.3	1	.0				
Pope	R	12	1,141	50.2	1,129	49.7	2	.0						
Pulaski	D	8	2,074	49.6	2,082	49.8	17	.4	5	.1				
Putnam	D	319	1,225	44.1	1,544	55.6	6	.2						
Randolph	D	1,369	7,424	45.8	8,793	54.2								
Richland	D	940	3,624	44.2	4,564	55.7	5	.0						20
Rock Island	D	15,120	27,350	39.1	42,470	60.7	101	.1	30	.0				
St. Clair	D	17,315	39,405	40.8	56,720	58.7	450	.5	64	.0				
Saline	D	1,046	6,074	46.0	7,120	53.9	9	.0	5	.0				
Sangamon	R	10,313	42,952	56.3	32,639	42.7	170	.2	591	.8		36	11	
Schuyler	R	30	2,297	50.3	2,267	49.6	1	.0	1	.0				
Scott	R	86	1,737	51.3	1,651	48.7			1	.0				
Shelby	D	1,044	5,280	45.5	6,324	54.4	8	.0	3	.0				
Stark	R	995	2,272	63.8	1,277	35.9	9	.3	1	.0				
Stephenson	R	149	10,061	50.3	9,912	49.6	12	0	4	0				
Tazewell	D	2,987	22,336	46.8	25,323	53.1	26	.0	5	0				

VOTE FOR GOVERNOR AND LIEUTENANT GOVERNOR—NOVEMBER 7, 1972—Concluded

Counties		Plurality	Republican		Democratic		Socialist Labor		Communist		Write-Ins	Write-Ins	Other Write-Ins
			Richard B. Ogilvie and James D. Nowlan	Per Cent	Daniel Walker and Neil F. Hartigan	Per Cent	George A. LaForest and Stanley L. Prorok	Per Cent	Ishmael Flory and Theodore Pearson	Per Cent	Governor	Lieutenant Governor	Governor and Lt. Governor
Union	D	956	3,825	44.4	4,781	55.5	7	.0	2	.0			
Vermilion	D	695	19,320	49.0	20,015	50.8	32	.0	28	.0			15
Wabash	R	42	3,166	50.3	3,124	49.6	3	.0	1	.0			
Warren	R	1,503	5,679	57.6	4,176	42.3	8	.0					
Washington	R	817	4,176	55.4	3,359	44.5	7	.0	2	.0			
Wayne	R	53	4,803	50.3	4,350	49.7	3	.0	1	.0			
White	D	1,222	4,230	43.7	5,452	56.3	2	.0	1	.0			
Whiteside	R	2,170	13,704	54.2	11,534	45.6	49	.2	5	.0			
Will	R	2,644	50,717	51.3	48,073	48.6	85	.0	30	.0	31	26	
Williamson	D	2,204	10,562	45.2	12,766	54.7	10	.0	7	.0			
Winnebago	D	11,644	40,922	43.7	52,566	56.1	102	.1	29	.0	34	24	
Woodford	R	1,665	7,476	56.2	5,811	43.7	4	0	3	.0			
Down State	R	21,917	1,214,774	50.4	1,192,857	49.5	2,709	.1	1,361	.0	447	180	99
Cook County	D	99,411	1,079,035	47.6	1,178,446	52.0	5,257	.2	3,231	.1	588	59	
Total	D	77,494	2,293,809	49.0	2,371,303	50.7	7,966	.2	4,592	.0	1,035	239	99

Plurality is computed from the Republican and Democratic votes.
Counties Carried. Mr. Ogilvie, Mr. Nowlan, 47: Mr. Walker, Mr. Hartigan, 56.

VOTE FOR ATTORNEY GENERAL—NOVEMBER 7, 1972

Counties		Plurality	Republican		Democratic		Socialist Labor		Communist		
			William J. Scott	Per Cent	Thomas G. Lyons	Per Cent	George P. Milonas	Per Cent	Linda R. Appelhans	Per Cent	Write-Ins
Adams	R	9,625	19,374	66.3	9,749	33.4	64	.2	27	.0	
Alexander	R	388	3,048	53.1	2,660	46.3	27	.5	9	.2	
Bond	R	1,007	3,908	57.4	2,901	42.6	1	.0			
Boone	R	4,189	7,010	71.2	2,821	28.7	10	.1	1	.0	
Brown	R	321	1,603	55.2	1,282	44.1	20	.7			
Bureau	R	6,328	12,200	67.5	5,872	32.5	8	.0	2	.0	1
Calhoun	D	160	1,331	47.0	1,491	52.7	8	.3	1	.0	
Carroll	R	3,683	6,046	71.8	2,363	28.1	11	.1	3	.0	
Cass	R	1,401	4,174	60.1	2,773	39.9	2	.0	1	.0	
Champaign	R	29,673	43,119	75.7	13,446	23.6	176	.3	214	.4	7
Christian	R	1,462	9,397	54.1	7,935	45.7	23	.1	1	.0	
Clark	R	1,879	5,131	61.2	3,252	38.8	4	.0	1	.0	
Clay	R	1,281	4,516	58.2	3,235	41.7	2	.0	4	.0	
Clinton	R	1,969	6,826	58.4	4,857	41.5	5	.0	3	.0	1
Coles	R	6,945	14,111	66.3	7,166	33.6	17	.0	4	.0	
Cook	(See below)										
Crawford	R	2,082	5,888	60.7	3,806	39.2	8	.0	5	.0	
Cumberland	R	977	3,062	59.4	2,085	40.5	4	.0	1	.0	3
DeKalb	R	14,515	22,536	73.3	8,021	26.1	131	.4	70	.2	1
DeWitt	R	2,936	5,250	69.4	2,314	30.6	3	.0	1	.0	
Douglas	R	3,566	5,962	71.3	2,396	28.7	1	.0	2	.0	
DuPage	R	146,121	185,923	82.3	39,802	17.6	145	.0	84	.0	
Edgar	R	3,207	7,023	64.7	3,816	35.1	14	.1	5	.0	
Edwards	R	1,552	2,678	70.3	1,126	29.6	4	.1			
Effingham	R	3,286	7,885	63.1	4,599	36.8	7	.0	4	.0	
Fayette	R	1,200	5,768	55.8	4,568	44.2	1	.0	2	.0	
Ford	R	4,241	5,873	78.2	1,632	21.7			1	.0	
Franklin	R	266	9,031	50.6	8,765	49.1	20	.2	28	.2	
Fulton	R	4,121	11,716	60.5	7,595	39.2	44	.2	6	.0	
Gallatin	D	235	1,737	46.8	1,972	53.1	3	.0	2	.0	
Greene	R	939	4,036	56.4	3,097	43.3	19	.3	1	.0	
Grundy	R	5,429	8,668	72.7	3,239	27.2	8	.0	3	.0	2
Hamilton	R	520	2,715	55.2	2,195	44.6	5	.1	2	.0	
Hancock	R	3,680	7,238	67.0	3,558	32.9	4	.0	1	.0	
Hardin	R	385	1,647	56.5	1,262	43.3	2	.0	2	.0	
Henderson	R	953	2,637	61.0	1,684	39.0	1	.0	1	.0	
Henry	R	5,724	14,005	62.8	8,281	37.1	10	.0	1	.0	
Iroquois	R	8,398	12,030	76.8	3,632	23.2	6	.0	3	.0	4
Jackson	R	3,470	13,984	56.3	10,514	42.3	213	.9	123	.5	
Jasper	R	637	2,977	56.0	2,340	44.0	2	.0			2

Jefferson	R	1,295	8,271	54.1	6,976	45.7	25	.2	4	.0	
Jersey	R	36	4,073	50.1	4,047	49.8	2	.0	1	.0	
JoDaviess	R	2,716	5,679	65.6	2,963	34.2	9	.1	1	.0	
Johnson	R	1,307	2,596	66.7	1,289	33.1	3	.0	2	.0	
Kane	R	46,804	68,482	75.7	21,678	24.0	190	.2	106	.1	33
Kankakee	R	14,191	26,668	68.0	12,477	31.8	37	.0	8	.0	
Kendall	R	7,559	9,610	82.4	2,051	17.6	6	.0	2	.0	
Knox	R	7,671	16,743	64.7	9,072	35.1	25	.1	20	.0	11
Lake	R	65,195	101,092	73.4	35,897	26.1	448	.3	207	.2	
LaSalle	R	12,333	31,112	62.3	18,779	37.6	30	.0	15	.0	
Lawrence	R	1,422	4,656	58.9	3,234	40.9	7	.0	2	.0	
Lee	R	6,072	10,515	70.3	4,443	29.7	5	.0	1	.0	10
Livingston	R	6,835	13,345	74.7	4,510	25.3	4	.0	2	.0	
Logan	R	6,396	10,314	72.4	3,916	27.5	7	.0	1	.0	
McDonough	R	7,001	11,195	72.5	4,194	27.2	27	.2	17	.1	
McHenry	R	27,904	37,624	79.3	9,720	20.5	77	.2	45	.0	
McLean	R	22,655	33,841	75.0	11,186	24.8	77	.2	40	.0	
Macon	R	13,982	31,628	63.9	17,646	35.6	204	.4	30	.0	
Macoupin	R	698	11,399	51.4	10,901	48.3	68	.2	6	.0	2
Madison	D	1,679	45,430	49.0	47,109	50.8	134	.1	98	.1	33
Marion	R	1,152	9,147	53.3	7,995	46.6	10	.1	12	.0	
Marshall	R	2,343	4,384	67.3	2,111	32.6	7	.1			
Mason	R	1,595	4,595	60.5	3,000	39.5	2	.0	2	.0	
Massac	R	1,956	3,869	66.9	1,913	33.1	2	.0	2	.0	
Menard	R	1,999	3,565	69.4	1,566	30.5	4	.0	2	.0	
Mercer	R	1,355	4,989	57.9	3,634	42.1	1	.0			
Monroe	R	2,230	5,487	62.6	3,257	37.1	15	.2	11	.1	
Montgomery	R	568	7,952	51.8	7,394	48.1	13	.0	2	.0	
Morgan	R	5,745	11,030	67.6	5,285	32.4	10	.0	2	.0	
Moultrie	R	1,764	3,952	64.3	2,188	35.6	1	.0	3	.0	
Ogle	R	9,338	13,512	76.3	4,174	23.6	21	.1	2	.0	
Peoria	R	23,396	49,512	65.3	26,116	34.4	123	.2	75	.0	
Perry	R	1,628	6,099	57.7	4,471	42.3	2	.0	2	.0	
Piatt	R	3,410	5,401	73.0	1,991	26.9	10	.1	1	.0	
Pike	R	1,464	5,475	57.5	4,011	42.1	30	.3	1	.0	
Pope	R	541	1,308	63.0	767	36.9	2	.0			
Pulaski	R	692	2,311	58.6	1,619	41.1	8	.2	5	.1	
Putnam	R	451	1,574	58.3	1,123	41.6	3	.1	2	.0	
Randolph	R	1,178	8,286	53.8	7,108	46.2	5	.0	1	.0	
Richland	R	2,114	4,881	63.8	2,767	36.1	7	.0	1	.0	32
Rock Island	R	1,099	34,191	50.7	33,092	49.0	126	.2	58	.0	
St. Clair	D	3,104	43,057	47.9	46,161	51.4	484	.5	104	.1	
Saline	R	1,932	7,141	57.7	5,209	42.1	10	.0	6	.0	
Sangamon	R	27,908	52,414	67.1	24,506	31.4	536	.7	706	.9	1
Schuyler	R	979	2,681	61.1	1,702	38.8	1	.0	1	.0	
Scott	R	830	1,966	63.3	1,136	36.6	....	....	2	.0	
Shelby	R	3,022	7,121	63.4	4,099	36.5	5	.0	4	.0	
Stark	R	1,510	2,491	71.5	981	28.2	11	.3	1	.0	
Stephenson	R	7,631	13,377	69.9	5,746	30.0	11	.0	6	.0	
Tazewell	R	13,903	30,337	64.8	16,434	35.1	44	.0	32	.0	

VOTE FOR ATTORNEY GENERAL—NOVEMBER 7, 1972—Concluded

Counties		Plurality	Republican		Democratic		Socialist Labor		Communist		
			William J. Scott	Per Cent	Thomas G. Lyons	Per Cent	George P. Milonas	Per Cent	Linda R. Appelhans	Per Cent	Write-Ins
Union	R	1,283	4,721	57.8	3,438	42.1	6	.0	2	.0	.....
Vermilion	R	12,457	25,242	66.2	12,785	33.5	66	.2	51	.1	5
Wabash	R	1,515	3,726	62.7	2,211	37.2	4	.0	1	.0	.....
Warren	R	3,788	6,723	69.5	2,935	30.4	6	.0	3	.0	.....
Washington	R	2,379	4,770	66.5	2,391	33.4	5	.0	3	.0	.....
Wayne	R	2,238	5,476	62.8	3,238	37.1	4	.0	3	0	.....
White	R	954	5,008	55.2	4,054	44.7	2	.0	2	.0	.....
Whiteside	R	8,965	16,599	68.4	7,634	31.4	37	.2	5	.0	.....
Will	R	38,244	67,551	69.6	29,307	30.2	142	.1	71	.0	7
Williamson	R	4,001	13,042	58.9	9,041	40.9	21	.0	20	.0	.....
Winnebago	R	22,389	57,019	62.0	34,630	37.7	222	.2	96	.1	26
Woodford	R	6,030	9,551	73.0	3,521	26.9	5	.0	3	.0	.....
Down State	R	765,108	1,548,039	66.2	782,931	33.5	4,448	.2	2,531	.1	181
Cook County	R	519,987	1,350,159	61.6	830,172	37.9	6,061	.3	4,093	2	221
Total	R	1,285,095	2,898,198	64.0	1,613,103	35.6	10,509	.2	6,624	.1	402

Plurality is Computed from the Republican and Democratic Votes.
Counties Carried. Mr. Scott. 98; Mr. Lyons 4.

VOTE FOR SECRETARY OF STATE—NOVEMBER 7, 1972

Counties		Plurality	Republican		Democratic		Socialist Labor		Communist		
			Edmund J. Kucharski	Per Cent	Michael J. Howlett	Per Cent	Elizabeth Schnur	Per Cent	Frances Gabow	Per Cent	Write-Ins
Adams	R	221	14,809	50.2	14,588	49.5	68	.2	19	.0	.....
Alexander	D	613	2,607	44.5	3,220	54.9	27	.5	8	.1	.....
Bond	R	173	3,538	51.2	3,365	48.7	1	.0	.....	.....	.....
Boone	R	1,478	5,656	57.4	4,178	42.4	13	.1	4	.0	.....
Brown	D	545	1,188	40.4	1,733	58.9	21	.7	1	.0	.....
Bureau	R	348	9,305	50.9	8,957	49.0	11	.0	.....	.....	1
Calhoun	D	378	1,220	43.1	1,598	56.5	11	.4	.....	.....	.....
Carroll	R	1,852	5,158	60.8	3,306	39.0	13	.2	3	.0	.....
Cass	D	1,288	2,920	41.0	4,208	59.0	1	.0	1	.0	.....
Champaign	D	5,457	25,856	44.7	31,313	54.2	426	.7	199	.3	6
Christian	D	3,662	6,947	39.5	10,609	60.4	22	.1	1	.0	.....
Clark	R	87	4,307	50.5	4,220	49.5	4	.0	2	.0	.....
Clay	R	33	3,950	50.2	3,917	49.7	2	.0	5	.0	.....
Clinton	D	1,118	5,479	45.3	6,597	54.6	10	.0	1	.0	1
Coles	D	1,517	9,859	46.4	11,376	53.5	21	.0	6	.0	.....
Cook	(See below)										
Crawford	D	584	4,645	47.0	5,229	52.9	5	.0	3	.0	.....
Cumberland	D	710	2,230	43.1	2,940	56.8	6	.1	2	.0	3
DeKalb	R	2,124	16,107	53.1	13,983	46.1	206	.7	58	.2	1
DeWitt	R	81	3,822	50.5	3,741	49.4	3	.0	2	.0	.....
Douglas	R	557	4,445	53.3	3,888	46.6	3	.0	2	.0	.....
DuPage	R	46,222	135,915	60.2	89,693	39.7	212	.0	76	.0	.....
Edgar	R	464	5,671	52.0	5,207	47.8	19	.2	3	.0	.....
Edwards	R	1,031	2,451	63.2	1,420	36.6	5	.1	.....	.....	.....
Effingham	D	2,127	5,263	41.6	7,390	58.4	6	.0	5	.0	.....
Fayette	D	621	4,905	47.0	5,526	53.0	1	0	3	.0	.....
Ford	R	1,568	4,541	60.4	2,973	39.6	2	.0	1	.0	.....
Franklin	D	2,504	7,831	42.9	10,335	56.7	43	.2	29	.2	.....
Fulton	D	2,616	8,411	43.2	11,027	56.6	42	.2	5	.0	.....
Gallatin	D	661	1,561	41.2	2,222	58.7	2	.0	2	.0	.....
Greene	D	690	3,283	45.1	3,973	54.6	17	.2	1	.0	.....
Grundy	R	1,558	6,702	56.5	5,144	43.4	9	.0	1	.0	2
Hamilton	D	384	2,283	46.0	2,667	53.8	4	.0	4	.0	.....
Hancock	R	1,066	5,954	54.9	4,888	45.1	4	.0	1	.0	.....
Hardin	R	98	1,519	51.6	1,421	48.3	2	.0	1	.0	.....
Henderson	R	159	2,245	51.8	2,086	48.1	.....	.....	2	.0	.....
Henry	R	422	11,535	50.9	11,113	49.0	8	.0	2	.0	.....
Iroquois	R	3,967	9,797	62.7	5,820	37.3	7	.0	3	.0	4
Jackson	D	4,007	10,255	41.3	14,262	57.4	253	1.0	84	.3	.....
Jasper	D	1,018	2,213	40.6	3,231	59.3	1	.0	1	.0	2
Jefferson	D	1,428	6,958	45.3	8,386	54.6	22	.1	5	.0	.....
Jersey	D	548	3,820	46.6	4,368	53.3	2	.0	1	.0	.....
JoDaviess	R	1,100	4,922	56.2	3,822	43.7	9	.1	1	.0	.....
Johnson	R	526	2,219	56.6	1,693	43.2	5	.1	1	.0	.....
Kane	R	14,740	52,821	57.8	38,081	41.7	320	.4	96	.1	36

Kankakee	R	3,506	21,319	54.4	17,813	45.5	32	.0	9	0	
Kendall	R	3,484	7,534	65.0	4,050	34.9	10	.0	1	0	
Knox	R	462	13,262	50.7	12,800	49.0	55	.2	16	.0	
Lake	R	20,088	78,421	57.0	58,333	42.4	572	.4	170	.1	
LaSalle	D	6,098	22,165	43.9	28,263	56.0	44	.0	9	.0	
Lawrence	D	364	3,880	47.7	4,244	52.2	8	.0	1	.0	
Lee	R	1,256	8,183	54.1	6,927	45.8	3	.0	3	.0	9
Livingston	R	3,232	10,551	59.0	7,319	40.9	7	.0	3	.0	
Logan	D	24	7,135	49.9	7,159	50.1	5	.0	1	.0	
McDonough	R	943	8,181	52.9	7,238	46.8	30	.2	17	.1	
McHenry	R	11,844	29,632	62.3	17,788	37.4	132	.3	29	.0	
McLean	R	5,517	25,358	55.9	19,841	43.7	127	.3	47	.1	
Macon	D	9,369	20,448	40.6	29,817	59.2	105	.2	28	.0	
Macoupin	D	3,100	9,841	43.1	12,941	56.7	43	.2	5	.0	
Madison	D	16,295	38,852	41.2	55,147	58.5	140	.1	85	.0	
Marion	D	1,924	7,798	44.4	9,722	55.4	24	.1	11	.0	
Marshall	D	154	3,174	48.8	3,328	51.1	6	.0			
Mason	D	1,673	3,009	39.1	4,682	60.8	3	.0	2	.0	
Massac	R	972	3,396	58.3	2,424	41.6	2	.0	1	.0	
Menard	R	18	2,619	50.1	2,601	49.8	3	.0	1	.0	
Mercer	D	808	3,986	45.4	4,794	54.6	2	.0			
Monroe	R	421	4,698	52.3	4,277	47.6	10	.1	6	.0	
Montgomery	D	2,772	6,385	41.0	9,157	58.9	13	.0			
Morgan	D	1,734	7,379	44.7	9,113	55.2	8	.0	1	.0	
Moultrie	D	453	2,824	46.2	3,277	53.7	4	.0	2	.0	
Ogle	R	4,144	10,904	61.6	6,760	38.2	27	.2	3	.0	
Peoria	D	14,992	30,999	40.1	45,991	59.5	279	.4	74	.0	
Perry	R	135	5,443	50.6	5,308	49.4	3	.0	1	.0	
Piatt	D	136	3,615	49.0	3,751	50.8	10	.1	1	.0	
Pike	D	145	4,664	49.1	4,809	50.6	25	.3	2	.0	
Pope	R	214	1,170	54.9	956	44.9	4	.2			
Pulaski	D	62	1,962	49.1	2,024	50.6	10	.3	3	.0	
Putnam	D	222	1,247	45.8	1,469	53.9	3	.1	4	.1	
Randolph	D	1,291	7,180	45.9	8,471	54.1	5	.0			
Richland	D	625	3,567	45.9	4,192	54.0	7	.0			29
Rock Island	D	12,839	27,655	40.5	40,494	59.3	123	.2	36	.0	
St. Clair	D	16,630	37,448	40.7	54,078	58.8	406	.4	88	.0	
Saline	D	558	6,009	47.7	6,567	52.2	11	.0	4	.0	
Sangamon	D	8,988	34,507	43.6	43,495	54.9	787	1.0	371	.5	2
Schuyler	D	247	2,106	47.2	2,353	52.7	2	.0	1	.0	
Scott	R	56	1,635	50.9	1,579	49.1			1	.0	
Shelby	D	1,195	4,964	44.6	6,159	55.3	8	.0	4	.0	
Stark	R	265	1,880	53.6	1,615	46.1	9	.3	1	.0	
Stephenson	R	2,417	10,745	56.3	8,328	43.6	16	.0	9	.0	
Tazewell	D	6,410	20,325	43.1	26,735	56.7	77	.2	17	.0	
Union	D	751	3,728	45.4	4,479	54.5	6	.0	2	.0	
Vermilion	D	1,921	18,495	47.4	20,416	52.3	97	.2	47	.1	3
Wabash	R	415	3,219	53.4	2,804	46.5	3	.0	1	.0	
Warren	R	1,185	5,528	56.9	4,343	43.9	9	.0	3	.0	
Washington	R	1,367	4,349	59.3	2,982	40.6	4	.0	2	.0	

VOTE FOR SECRETARY OF STATE—NOVEMBER 7, 1972—Concluded

			Republican		Democratic		Socialist Labor		Communist		
		Plurality	Edmund J. Kucharski	Per Cent	Michael J. Howlett	Per Cent	Elizabeth Schnur	Per Cent	Frances Gabow	Per Cent	Write-Ins
Wayne	R	989	4,921	55.5	3,932	44.4	3	.0	4	.0	
White	D	283	4,434	48.4	4,717	51.5	2	.0			
Whiteside	R	1,760	13,089	53.5	11,329	46.3	43	.2	3	.0	
Will	R	5,189	51,343	52.5	46,154	47.2	256	.3	79	.0	8
Williamson	D	787	10,806	48.2	11,593	51.7	24	.1	14	.0	
Winnebago	D	3,939	43,753	47.6	47,692	51.9	355	.4	88	.0	26
Woodford	R	913	6,956	53.5	6,043	46.5	6	.0	2	.0	
Down State	R	1,402	1,175,789	49.9	1,174,387	49.8	5,877	.2	1,958	.0	133
Cook County	D	174,185	1,011,755	45.8	1,185,940	53.7	6,542	.3	4,121	.2	148
Total	D	172,783	2,187,544	47.9	2,360,327	51.7	12,419	.3	6,079	.1	281

Plurality is computed from the Republican and Democratic Votes.
Counties Carried, Mr. Kucharski, 48; Mr. Howlett 54.

VOTE FOR COMPTROLLER—NOVEMBER 7, 1972

Counties		Plurality	Republican		Democratic		Socialist Labor		Communist		
			George W. Lindberg	Per Cent	Dean Barringer	Per Cent	Clarys L. Essex	Per Cent	Nathan Sharpe	Per Cent	Write-Ins
Adams	R	963	14,580	51.5	13,617	48.1	64	.2	73	.3	
Alexander	D	957	2,368	41.3	3,325	58.0	31	.5	8	.1	
Bond	R	359	3,463	52.7	3,104	47.3	1	.0			
Boone	R	2,060	5,765	60.7	3,705	39.0	19	.2	3	.0	
Brown	D	344	1,201	43.4	1,545	55.8	21	.8			
Bureau	R	3,007	10,099	58.7	7,092	41.2	7	.0	2	.0	1
Calhoun	D	175	1,214	46.4	1,389	53.1	10	.4	1	.0	
Carroll	R	2,118	5,150	62.8	3,032	37.0	14	.2	3	.0	
Cass	D	573	3,080	45.7	3,653	54.2	1	.0	1	.0	
Champaign	R	565	27,607	49.8	27,042	48.8	436	.8	310	.6	5
Christian	D	2,819	6,875	41.4	9,694	58.4	19	.1	2	.0	
Clark	R	286	4,271	51.7	3,985	48.2	4	.0	1	.0	
Clay	R	141	3,853	50.9	3,712	49.0	2	.0	3	.0	
Clinton	D	297	5,455	48.6	5,752	51.3	5	.0	2	.0	2
Coles	D	751	9,769	48.1	10,520	51.8	24	.1	7	.0	
Cook	(See below)										
Crawford	R	484	4,990	52.5	4,506	47.4	6	.0	5	.0	
Cumberland	D	252	2,337	47.4	2,589	52.5	3	.0			3
DeKalb	R	3,179	15,878	54.8	12,699	43.8	262	.9	152	.5	
DeWitt	R	503	3,877	53.4	3,374	46.5	2	.0	2	.0	
Douglas	R	1,435	4,707	58.9	3,272	41.0	4	.0	2	.0	
DuPage	R	85,266	150,482	69.7	65,216	30.2	225	.1	84	.0	
Edgar	R	1,255	5,878	55.9	4,623	43.9	15	.1	4	.0	
Edwards	R	1,268	2,477	67.1	1,209	32.8	4	.1			
Effingham	D	743	5,457	46.8	6,200	53.1	9	.0	5	.0	
Fayette	D	121	4,934	49.4	5,055	50.6	1	.0	3	.0	
Ford	R	2,304	4,777	65.9	2,473	34.1	2	.0	1	.0	
Franklin	D	3,877	6,802	38.7	10,679	60.8	30	.2	52	.3	
Fulton	D	117	9,136	49.5	9,253	50.2	56	.3	5	.0	
Gallatin	D	626	1,479	41.2	2,105	58.7	2	.0	2	.0	
Greene	D	261	3,323	48.0	3,584	51.7	19	.3	3	.0	
Grundy	R	2,456	6,806	60.9	4,350	39.0	10	.0	2	.0	
Hamilton	D	316	2,148	46.5	2,464	53.3	5	.1	3	.0	
Hancock	R	1,769	6,098	58.4	4,329	41.5	5	.0	2	.0	
Hardin	R	148	1,485	52.6	1,337	47.3	1	.0	1	.0	
Henderson	R	329	2,283	53.9	1,954	46.1	1	.0	1	.0	
Henry	R	2,320	12,017	55.3	9,697	44.6	8	.0	3	.0	
Iroquois	R	6,002	10,556	69.8	4,554	30.1	5	.0	3	.0	5
Jackson	D	5,176	9,179	38.2	14,355	59.8	296	1.2	168	.7	
Jasper	D	607	2,298	44.2	2,905	55.8					2

Jefferson	D	1,543	6,539	44.6	8,082	55.1	27	.2	8	.0	1
Jersey	D	395	3,692	47.4	4,087	52.5	1	.0	1	.0	
JoDaviess	R	1,632	5,004	59.7	3,372	40.2	9	.1	1	.0	
Johnson	R	447	2,092	55.9	1,645	43.9	4	.1	2	.0	
Kane	R	24,670	56,147	63.6	31,477	35.7	386	.4	262	.3	28
Kankakee	R	6,217	21,798	58.3	15,581	41.6	27	.0	15	.0	
Kendall	R	4,732	7,892	71.3	3,160	28.6	11	.0	3	.0	
Knox	R	3,173	14,011	56.2	10,838	43.4	63	.3	35	.1	
Lake	R	31,318	82,035	61.4	50,717	37.9	605	.5	339	.3	
LaSalle	D	207	22,990	49.7	23,197	50.2	45	.0	12	.0	
Lawrence	R	185	4,006	51.1	3,821	48.8	6	.0	1	.0	
Lee	R	2,719	8,538	59.4	5,819	40.5	4	.0	3	.0	8
Livingston	R	5,071	11,053	64.8	5,982	35.1	6	.0	4	.0	
Logan	R	1,300	7,399	54.8	6,099	45.2	6	.0	2	.0	
McDonough	R	2,617	8,894	58.6	6,077	41.0	37	.2	21	.1	
McHenry	R	21,427	33,905	72.8	12,478	26.8	142	.3	75	.2	
McLean	R	3,266	23,449	53.5	20,183	46.0	154	.4	77	.2	
Macon	D	5,990	21,036	43.6	27,026	56.0	120	.2	53	.1	
Macoupin	D	2,022	9,799	45.2	11,821	54.6	37	.2	11	.0	
Madison	D	12,627	37,579	42.7	50,206	57.0	147	.2	111	.1	22
Marion	D	1,645	7,548	44.9	9,193	54.7	37	.2	26	.2	
Marshall	R	890	3,551	57.1	2,661	42.8	7	.1			
Mason	D	584	3,363	46.0	3,947	54.0	3	.0	1	.0	
Massac	R	834	3,190	57.5	2,356	42.4	1	.0	4	.0	
Menard	R	726	2,848	57.2	2,122	42.6	3	.0	4	.0	
Mercer	D	6	4,213	50.0	4,219	50.0	1	.0	1	.0	
Monroe	R	734	4,624	54.1	3,890	45.6	18	.2	8	.0	
Montgomery	D	1,412	6,669	45.2	8,081	54.7	18	.1	1	.0	
Morgan	R	347	8,003	51.1	7,656	48.8	12	.0	3	.0	
Moultrie	D	97	2,850	49.1	2,947	50.8	1	.0	1	.0	
Ogle	R	5,130	10,943	65.2	5,813	34.6	19	.1	3	.0	
Peoria	R	4,316	38,857	52.6	34,541	46.8	263	.4	223	.3	
Perry	D	342	4,933	48.3	5,275	51.6	7	.0	1	.0	
Piatt	R	757	3,909	55.3	3,152	44.6	10	.1			
Pike	D	60	4,522	49.5	4,582	50.2	28	.3	1	.0	
Pope	R	236	1,116	55.8	880	44.0	3	.2			
Pulaski	D	374	1,740	45.0	2,114	54.7	12	.3	2	.0	
Putnam	R	35	1,308	50.5	1,273	49.2	6	.2	2	.0	
Randolph	D	707	7,186	47.6	7,893	52.3	8	.0			
Richland	R	410	3,891	52.7	3,481	47.2	5	.0			55
Rock Island	D	9,745	27,817	42.4	37,562	57.3	125	.2	89	.1	
St. Clair	D	12,691	36,750	42.4	49,441	57.0	378	.4	138	.2	
Saline	D	356	5,791	48.5	6,147	51.4	9	.0	5	.0	
Sangamon	R	1,762	37,687	50.4	35,925	48.1	634	.8	512	.7	2
Schuyler	R	183	2,234	52.1	2,051	47.8	1	.0	2	.0	
Scott	R	202	1,655	53.2	1,453	46.7			1	.0	
Shelby	D	466	5,041	47.7	5,507	52.1	9	.0	6	.0	
Stark	R	951	2,156	64.0	1,205	35.8	8	.2	1	.0	
Stephenson	R	2,041	10,609	55.3	8,568	44.6	13	.0	10	.0	
Tazewell	D	1,451	21,916	48.2	23,367	51.4	94	.2	87	.2	

VOTE FOR COMPTROLLER—NOVEMBER 7, 1972—Concluded

Counties		Plurality	Republican		Democratic		Socialist Labor		Communist		
			George W. Lindberg	Per Cent	Dean Barringer	Per Cent	Clarys L. Essex	Per Cent	Nathan Sharpe	Per Cent	Write-Ins
Union	D	2,109	3,008	37.0	5,117	62.9	6	.0	4	.0	.....
Vermilion	R	1,796	19,691	52.1	17,895	47.4	108	.3	72	.2	4
Wabash	R	644	3,182	55.6	2,538	44.3	2	.0	2	.0	.....
Warren	R	2,672	6,070	64.0	3,398	35.8	11	.1	3	.0	.....
Washington	R	1,710	4,367	62.1	2,657	37.8	6	.0	2	.0	.....
Wayne	R	1,224	4,845	57.2	3,621	42.7	6	.0	3	.0	.....
White	D	15	4,401	49.9	4,416	50.1	4	.0	2	.0	.....
Whiteside	R	3,882	13,614	58.2	9,732	41.6	35	.1	5	.0	.....
Will	R	10,140	51,991	55.1	41,851	44.4	317	.3	157	.2	5
Williamson	D	682	10,344	48.3	11,026	51.5	25	.1	22	.1	.....
Winnebago	D	618	44,146	49.4	44,764	50.1	323	.4	164	.2	21
Woodford	R	3,171	7,752	62.8	4,581	37.1	9	.0	2	.0	.....
Down State	R	197,628	1,222,143	54.2	1,024,515	45.4	6,061	.3	3,525	.2	164
Cook County	D	74,986	995,297	47.9	1,070,283	51.5	6,736	.3	5,800	.3	123
Total	R	122,642	2,217,440	51.2	2,094,798	48.3	12,797	.3	9,325	.2	287

Plurality is Computed from the Republican and Democratic Votes.
Counties Carried, Mr. Lindberg, 60; Mr. Barringer, 42.

VOTE FOR TRUSTEES OF THE UNIVERSITY OF ILLINOIS—NOVEMBER 7, 1972

Counties	Republican			Democratic			Socialist Labor			Communist Party		
	Ralph C. Hahn	Jane S. Hayes Rader	Park Livingston	Ellen Augustyn	Nicholas J. Bosen	Roger B. Pogue	Edwin L. Williams	Gregory P. Lyngas	Henry Schilling	Jack Kling	John Robert Lumpkin	William R. Fugate
Adams	15,107	14,724	14,246	11,697	11,221	11,307	408	158	194	165	153	340
Alexander	2,703	2,720	2,680	2,665	2,633	2,651	28	24	28	7	9	8
Bond	3,474	3,390	3,377	2,817	2,775	2,758	5	4	6	1	1	1
Boone	6,157	6,004	5,989	3,229	3,169	3,119	26	23	25	5	7	5
Brown	1,228	1,212	1,232	1,432	1,419	1,410	19	20	19	1	1	1
Bureau	10,637	10,557	10,556	6,595	6,407	6,457	12	10	11	1	2	1
Calhoun	1,163	1,109	1,111	1,210	1,193	1,177	11	12	12	.....	.....	1
Carroll	5,382	5,351	5,323	2,687	2,639	2,673	13	18	15	3	4	4
Cass	3,182	3,088	3,076	3,040	3,038	3,042	3	3	3	1	3	2
Champaign	29,810	29,098	28,129	21,644	21,605	25,494	1,278	714	775	690	2,127	663
Christian	7,009	6,998	6,835	8,481	8,336	8,554	23	20	20	1	1	1
Clark	4,428	4,349	4,352	3,387	3,359	3,336	12	9	10	2	4	2
Clay	3,896	3,827	3,817	3,320	3,298	3,316	3	4	5	9	8	7
Clinton	5,813	5,544	5,550	5,209	5,197	5,143	14	11	18	2	6	1
Coles	10,364	10,359	10,362	9,219	8,942	9,205	51	47	53	33	52	33
Cook	(See below)											
Crawford	5,364	5,290	5,337	4,104	4,094	4,072	14	10	10	8	13	5
Cumberland	2,456	2,407	2,449	2,342	2,349	2,354	8	11	10	1	3	.....
DeKalb	16,058	15,773	15,472	12,088	10,967	10,324	631	464	476	309	266	228
DeWitt	4,103	4,063	4,102	2,835	2,741	2,943	6	4	6	1	3	2
Douglas	4,923	4,920	4,925	2,905	2,822	3,094	9	7	7	3	4	2
DuPage	147,008	145,833	143,540	68,713	63,584	64,406	410	395	346	161	184	145
Edgar	6,164	6,073	6,074	4,270	4,239	4,259	28	17	25	4	6	4
Edwards	2,410	2,373	2,371	1,114	1,110	1,094	7	7	7	.....	.....	.....
Effingham	5,701	5,361	5,402	5,065	4,953	4,967	22	9	14	9	17	9
Fayette	5,060	4,949	4,974	4,744	4,679	4,719	2	1	3	4	7	4
Ford	5,007	4,980	4,967	2,116	2,103	2,225	3	2	2	1	2	1
Franklin	6,726	6,992	6,557	9,471	9,277	9,166	153	66	91	63	69	68
Fulton	9,395	9,265	9,388	8,677	8,563	8,684	53	51	55	10	12	12
Gallatin	1,546	1,550	1,546	2,038	2,022	2,029	2	1	2	2	2	2
Greene	3,373	3,312	3,336	2,993	2,949	2,914	22	20	21	2	6	3
Grundy	6,953	6,859	6,895	4,095	4,103	4,027	15	13	12	2	2	2
Hamilton	2,085	2,049	2,067	2,133	2,089	2,050	13	6	8	5	2	3
Hancock	6,142	6,078	6,098	3,755	3,675	3,768	9	6	7	4	4	4
Hardin	1,516	1,505	1,508	1,295	1,295	1,293	1	2	1	2	1	1
Henderson	2,331	2,331	2,295	1,833	1,790	1,933	3	2	2	2	2	3
Henry	12,168	12,120	12,046	8,710	8,454	8,504	17	12	11	5	6	4
Iroquois	10,431	10,263	10,241	4,179	4,150	4,159	7	4	6	3	4	3
Jackson	10,016	10,839	8,930	12,423	11,616	11,906	720	529	501	332	325	244
Jasper	2,496	2,443	2,456	2,581	2,548	2,572	3	.....	1	2	4	3
Jefferson	6,485	6,507	6,385	7,035	6,911	6,991	35	28	27	10	14	11
Jersey	3,670	3,588	3,564	3,685	3,599	3,679	6	5	7	3	3	1
JoDaviess	4,947	4,867	4,837	3,035	2,972	2,933	10	11	10	2	3	2
Johnson	2,227	2,270	2,196	1,350	1,316	1,356	5	4	5	.....	1	2
Kane	55,148	52,749	51,859	31,466	29,876	27,861	1,284	682	979	710	597	626

Kankakee	22,276	21,910	21,910	15,305	15,157	15,090	49	40	46	12	17	9
Kendall	7,700	7,515	7,442	2,735	2,637	2,660	15	16	15	1	5	2
Knox	13,749	13,662	13,330	9,482	8,840	9,764	204	109	114	129	105	124
Lake	75,675	76,847	73,598	53,380	49,545	48,226	2,084	1,305	1,538	1,006	898	880
LaSalle	24,277	23,982	23,895	22,156	21,679	21,672	62	50	51	23	26	19
Lawrence	4,097	4,071	4,015	3,416	3,331	3,309	15	11	16	3	4	2
Lee	8,552	8,343	8,284	4,858	4,798	4,931	8	10	9	9	6	3
Livingston	11,081	10,888	10,975	5,153	4,988	4,697	13	12	12	3	2	3
Logan	8,370	8,120	8,052	4,621	4,632	4,756	13	12	15	1	2	.....
Macon	21,196	21,840	19,190	22,587	21,813	29,385	411	205	219	118	168	117
Macoupin	10,235	10,121	10,025	11,040	10,932	11,003	50	41	44	13	11	13
Madison	38,977	39,275	38,174	49,340	48,733	48,775	330	283	319	207	191	174
Marion	7,826	7,685	7,459	8,460	8,315	8,155	130	59	78	65	62	56
Marshall	3,710	3,678	3,720	2,431	2,392	2,423	10	6	8	2	3	3
Mason	3,604	3,537	3,586	3,452	3,420	3,486	6	4	9	2	2	1
Massac	3,335	3,306	3,302	2,020	2,001	2,022	4	6	4	3	4	5
McDonough	8,559	8,580	8,360	5,299	5,002	5,482	162	137	177	121	95	187
McHenry	31,229	29,536	29,036	14,615	13,860	12,436	724	370	512	307	218	234
McLean	25,886	25,720	25,140	15,357	14,902	14,447	719	390	489	392	382	439
Menard	3,001	2,939	2,968	1,816	1,817	1,797	9	6	7	2	4	2
Mercer	4,453	4,482	4,421	3,763	3,719	3,777	4	4	4	2	3	3
Monroe	4,863	4,751	4,727	3,577	3,563	3,563	38	24	24	21	16	17
Montgomery	6,876	6,896	6,911	7,528	7,496	7,493	19	20	19	3	3	3
Morgan	8,451	8,138	8,224	5,940	5,810	5,751	18	13	15	7	6	8
Moultrie	2,938	2,935	2,901	2,690	2,624	2,904	4	5	4	4	4	4
Ogle	10,989	10,914	10,623	4,740	4,332	4,513	37	30	28	8	11	10
Peoria	40,042	38,144	39,016	29,801	29,259	28,379	1,187	547	774	646	653	841
Perry	4,783	5,633	4,560	4,353	4,148	4,315	14	11	11	1	2	1
Piatt	4,298	4,239	4,294	2,666	2,591	3,006	16	16	14	2	3	2
Pike	4,628	4,586	4,618	4,295	4,282	4,266	32	32	32	2	2	3
Pope	1,155	1,167	1,152	806	785	800	3	4	4	1	1	1
Pulaski	1,926	1,932	1,870	1,625	1,596	1,585	12	9	10	4	4	4
Putnam	1,391	1,363	1,367	1,160	1,166	1,161	8	5	8	2	3	2
Randolph	7,434	7,256	7,146	7,421	7,292	7,514	20	9	10	1	5	1
Richland	4,288	4,121	4,153	2,989	3,032	2,996	8	5	6	1	.....	.....
Rock Island	29,546	29,692	29,427	34,459	34,119	34,210	299	269	336	161	174	171
Saline	5,963	6,009	5,962	5,759	5,673	5,748	23	19	20	9	9	9
Sangamon	41,938	38,633	38,505	27,566	28,435	27,305	1,557	1,019	1,252	1,131	1,174	1,319
Schuyler	2,349	2,313	2,308	1,878	1,864	1,908	3	2	2	3	1	1
Scott	1,718	1,649	1,665	1,124	1,144	1,125	1	1	1	1	1	1
Shelby	5,260	5,291	5,187	4,952	4,858	5,344	12	12	14	6	8	5
Stark	2,185	2,192	2,193	1,118	1,088	1,102	7	8	7	1	1	1
St. Clair	37,423	38,312	37,061	47,346	46,776	47,377	576	511	589	161	165	172
Stephenson	11,492	11,455	11,312	6,492	6,295	6,377	31	24	27	15	20	13
Tazewell	22,799	22,515	22,097	20,773	19,839	19,937	543	262	582	265	271	360
Union	3,600	4,607	3,518	3,431	3,310	3,465	11	10	11	4	4	3
Vermilion	20,280	19,061	19,140	17,713	15,516	15,292	391	230	242	199	461	239
Wabash	3,297	3,289	3,244	2,386	2,361	2,351	6	9	6	1	1	1
Warren	6,098	6,107	6,076	3,218	3,087	3,302	19	17	17	7	6	4
Washington	4,435	4,350	4,360	2,506	2,541	2,530	9	9	11	3	2	2

VOTE FOR TRUSTEES OF THE UNIVERSITY OF ILLINOIS—NOVEMBER 7, 1972—Concluded

Counties	Republican			Democratic			Socialist Labor			Communist Party		
	Ralph C. Hahn	Jane S. Hayes Rader	Park Livingston	Ellen Augustyn	Nicholas J. Bosen	Roger B. Pogue	Edwin L. Williams	Gregory P. Lyngas	Henry Schilling	Jack Kling	John Robert Lumpkin	William R. Fugate
Wayne	4,841	4,779	4,727	3,253	3,202	3,183	7	7	9	4	7	5
White	4,386	4,346	4,350	4,094	4,055	4,054	5	3	4	.....	3	.....
Whiteside	14,293	14,043	13,979	8,551	8,519	8,454	40	40	40	10	11	6
Will	52,889	50,030	48,829	40,888	40,371	37,691	885	538	730	266	254	194
Williamson	10,993	11,157	10,698	10,180	10,047	10,167	89	65	73	42	41	44
Winnebago	46,308	43,988	43,410	39,471	37,950	37,231	1,248	648	856	740	546	646
Woodford	8,014	7,820	7,852	3,867	3,777	3,822	14	10	8	2	5	2
Down State	1,244,229	1,225,689	1,202,796	939,574	911,395	916,428	17,618	10,965	13,328	8,736	10,028	8,832
Cook County	959,989	973,317	965,452	1,075,015	1,062,605	1,022,048	11,237	8,873	9,840	7,144	7,839	6,867
Total	2,204,218	2,199,006	2,168,248	2,014,589	1,974,000	1,938,476	28,855	19,838	23,168	15,880	17,865	15,699

WRITE-IN VOTES FOR TRUSTEES OF THE UNIVERSITY OF ILLINOIS

County	Write-In Votes	County	Write-In Votes
Bureau	3	Kane	79
Champaign	25	Knox	30
Cook	254	Madison	18
Cumberland	3	Peoria	7
DeKalb	6	Sangamon	6
Iroquois	12	Will	18
Jasper	6	Winnebago	66
		TOTAL	533

Supreme Court, U. S.
FILED
OCT 24 1975
MICHAEL RODAK, JR., CLERK

No. 75-474

In the

Supreme Court of the United States

OCTOBER TERM, 1975

STATE BOARD OF ELECTIONS FOR THE STATE OF ILLINOIS, and MICHAEL L. LAVELLE, DONALD W. ADAMS, FRANKLIN LUNDING, JR., and WILLIAM L. HARRIS, individually and as members of the State Board of Elections,

Petitioners,

vs.

COMMUNIST PARTY OF ILLINOIS, ISHMAEL FLORY, LORRAINE ASHBY, JOHN LUMPKIN, JAY SCHAFFNER, VALERIE WITZKOWSKI; and THEODORE PEARSON, individually and on behalf of others similarly situated,

Respondents.

BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

HOWARD EGLIT
LANCE HADDIX
DAVID GOLDBERGER
ROGER BALDWIN FOUNDATION OF ACLU
5 South Wabash Street
Chicago, Illinois 60603
312/726-6180

JOHN ABT
299 Broadway
New York, New York 10007
212/CO. 7-3110

MELVIN WULF
AMERICAN CIVIL LIBERTIES UNION FOUNDATION
22 E. 40th Street
New York, New York
212/725-1222

Attorneys for Respondents

INDEX

PAGE

Question Presented 1

Statement of the Case 2-3

Reasons for Denying the Writ 3-7

Conclusion 8

Table Of Authorities

Cases

Baird v. Davoren, 346 F. Supp. 515 (D. Mass. 1972) 7

Carrington v. Rash, 380 U.S. 89 (1965) 6

Communist Party v. Ogilvie, 357 F. Supp. 105 (N.D. Ill. 1972) 2, 4

Dunn v. Blumstein, 405 U.S. 330 (1971) 6

Gray v. Sanders, 372 U.S. 368 (1962) 3, 4

Moore v. Ogilvie, 394 U.S. 814 (1969) 1, 3, 4, 6, 7

Rockefeller v. Socialist Workers Party, 400 U.S. 806 (1970) 3

Socialist Labor Party v. Gilligan, 406 U.S. 583 (1972) 7

Socialist Workers Party v. Hare, 304 F. Supp. 534 (E.D. Mich. 1969) 7

Socialist Labor Party v. Rhodes, 318 F. Supp. 1262 (S.D. Ohio 1970), app. dismissed on other grounds sub nom. Socialist Labor Party v. Gilligan, 406 U.S. 583 (1972) 7

Socialist Workers Party v. Rockefeller, 314 F. Supp. 984 (S.D. N.Y. 1970), aff'd Rockefeller v. Socialist Workers Party, 400 U.S. 806 (1970) 3

Williams v. Rhodes, 393 U.S. 23 (1969) 5

Zautra v. Miller, 348 F. Supp. 847 (D. Utah 1972) .. 7

Statutes

Ill. Rev. Stat., Chap. 46, §10-2 .....2, 3, 4, 5, 6

Ill. Rev. Stat., Chap. 46, §10-3 7

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1975

No. 75-474

STATE BOARD OF ELECTIONS FOR THE STATE OF ILLINOIS, and MICHAEL L. LAVELLE, DONALD W. ADAMS, FRANKLIN LUNDING, JR., and WILLIAM L. HARRIS, individually and as members of the State Board of Elections,

Petitioners,

vs.

COMMUNIST PARTY OF ILLINOIS, ISHMAEL FLORY, LORRAINE ASHBY, JOHN LUMPKIN, JAY SCHAFFNER, VALERIE WITZKOWSKI; and THEODORE PEARSON, individually and on behalf of others similarly situated,

Respondents.

BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

QUESTION PRESENTED

Whether *Moore* v. *Ogilvie,* 394 U.S. 814, is dispositive of the unconstitutionality, for violation of the "one man, one vote" principle, of a state election law which requires nominating petitions of "new" party candidates for statewide office to be signed by 25,000 voters, of whom not more than 13,000 from the same county may be counted.

STATEMENT OF THE CASE

Petitioners—Communist Party of Illinois, an unincorporated association, its candidates, and a voter wishing to vote for them—sought to nominate candidates for state-wide offices in 1972, and again in the 1974 elections out of which this controversy arose. In both years, it was required by section 10-2 of the Illinois Election Code, Ill. Rev. Stat., Ch. 46, to secure petition signatures to qualify for the placement of its candidates on the ballot. This requirement flowed from the fact that it was a "new" political party as defined by section 10-2, having failed to secure at least 5% of the vote in the preceding election.

In 1974, the Party secured approximately 30,000 signatures, well in excess of the 25,000 required by section 10-2. But that section further provides that not more than 13,000 signatures from any one county will be counted. Respondents therefore ignored all of the Party's Cook County signatures in excess of 13,000 and denied it and its candidates a place on the ballot for failure to meet the multi-county signature requirement.

When confronted with a like rejection of its nominating petitions in 1972, the Party sought and obtained an order from a three-judge district court declaring section 10-2 unconstitutional for violation of the "one man, one vote" principle and granting a preliminary injunction against its enforcement. *Communist Party* v. *Ogilvie,* 357 F. Supp. 105 (N.D. Ill. 1972); Pet. Br., p. C1. The State did not appeal this decision.

Following rejection of the Party's 1974 petition, respondents again sought and obtained injunctive and declaratory relief. The Court of Appeals affirmed, concluding with the District Court that section 10-2 violates the equal protection and due process clauses of the Fourteenth Amendment.

REASONS FOR DENYING THE WRIT

Certiorari should be denied because the decision below is in accord with controlling decisions of this Court invalidating statutory schemes which disqualify voters from participating in the process of nominating by petition minor party or independent candidates for state-wide office solely because of the county of their residence within the state. *Moore* v. *Ogilvie, supra* (1969); *Rockefeller* v. *Socialist Workers Party,* 400 U.S. 806 (1970), aff'ing *Socialist Workers Party* v. *Rockefeller,* 314 F. Supp. 984 (S.D. N.Y. 1970). These decisions, in turn, simply represent the application to the nominating process for such candidates of the "one man, one vote" requirement which *Gray* v. *Sanders,* 372 U.S. 368 (1962) applied to primaries for the nomination of major party candidates.

Petitioners do not ask for reconsideration of the rule of *Moore* and *Rockefeller*. They argue (Pet. Br., p. 12) only that the statutes there involved are distinguishable from section 10-2. That argument was considered and laid to rest by the Court of Appeals. As its opinion states (Pet. Br., pp. A8-A9):

> "Section 10-2 suffers the same constitutional defect (as its predecessor did in *Moore, supra*). To paraphrase the Supreme Court in *Moore*: Under section 10-2 the entire electorate of Cook County, which represents 45% of all registered voters in Illinois, may not form a new political party and place its candidates on the ballot. Yet any 25,000 of the remaining 55% of registered voters properly distributed among the

> remaining 101 counties may form a new party to elect candidates to office. Put another way, the approximately 2,750,000 registered Illinois voters in urbanized Cook County do not have the power under section 10-2 to create a statewide political party to protect their own peculiar interests, while 25,000 voters in any two or more counties in rural downstate Illinois may create such a party to protect their distinctly different, and often competing interests. This two-county requirement, like the fifty county requirement in *Moore,* "discriminates against the residents of the populous counties of the state in favor of rural sections."

Indeed, it appears that in 1972 the State acquiesced in the conclusion that section 10-2 is unconstitutional under *Moore.* For it did not appeal the three-judge court decision in *Communist Party* v. *Ogilvie, supra,* which so held. Its belated change of heart is not warranted by decisions of this or any other court.

In holding the "one man, one vote" principle applicable to party primaries, *Gray* v. *Sanders, supra,* at 379, made it clear that in every aspect of the electoral process:

> once the geographical unit for which a representative is to be chosen is designated (and here that unit is the state, for the offices at issue are statewide ones), all who participate in the election are to have an equal vote—whatever their race, whatever their sex, whatever their income, and wherever their home may be in the geographical unit. This is required by the Equal Protection Clause of the Fourteenth Amendment.

Under *Gray,* the Court would obviously not countenance a primary law which denied nomination to the state-wide candidate who received a majority of the votes cast, when more than 52% of his votes came from one county. No

more will it countenance section 10-2, which applies a like formula (13,000 signatures, which equals 52% of the requisite 25,000) to the nominating petitions of minor party candidates.

The hard statistical facts are that section 10-2 makes residence the critical criterion in determining whether a voter shall be given a voice in nominating "new" party candidates. One million voters in Cook County or 100,000 in Lake County (which has no major urban area) could sign the petition of the candidate whom they see as the man for the times and for the state. But only 13,000 of these signatures would be counted, the remainder being treated as non-existent. These voters would be dependent upon the voters of at least one other county to supply the 12,000 deficiency, or their man would be denied a place on the ballot.

There can be no compelling state interest (*Williams* v. *Rhodes,* 393 U.S. 23, 31 (1969)) in this crass violation of equal protection, and petitioners point to none. They attempt to justify section 10-2 on two grounds.

First, they offer the hypothetical danger (Pet. Br., p. 16) that "Without some regulation, Chicago fringe candidates would have the power to flood the statewide ballot in every election." Their hypothesis is at odds with the facts. For three million suburban voters reside in Cook County with interests often at odds with those of Chicago residents. They, too—and not just Chicagoans—are denied an equal voice in the nominating process, as are the residents of every other county. Moreover, even if it could be shown that candidates selected by Cook County voters act adversely to the interests of downstate residents (a showing totally unsupported by petitioners), that showing could not by any stretch justify the denial

to such voters of an equal voice in the nominating process. "'Fencing out' from the franchise a sector of the population because of the way they vote is constitutionally impermissible." *Carrington* v. *Rash,* 380 U.S. 89, 94 (1965). Accord, *Dunn* v. *Blumstein,* 405 U.S. 330, 355-56 (1971).

Second, petitioners argue (Pet. Br., p. 8) that section 10-2 is needed "to screen out the frivolous and nuisance candidacies." But section 10-2 was designed in a manner that "screens out" candidates whose massive support, although confined to a single county, refutes any such characterization. Moreover, as the Court of Appeals observed (Pet. Br., p. A11), if there is a compelling state interest in avoiding "laundry list" ballots, "some method is surely available which will serve the interest without making the effectiveness of an Illinois citizen's electoral power depend on his geographical location within that state." Obviously, section 10-2 is "insufficiently 'tailored' to achieve the articulated state goal." *Dunn* v. *Blumstein, supra,* at 357.[1]

Petitioners' contention that *Moore* is not dispositive of the unconstitutionality of section 10-2 in its present form has been rejected by a three-judge court, a single judge district court and the Court of Appeals for the Seventh Circuit. As appears from what has been said here, their

[1] Petitioners assert (Pet. Br., p. 14) that "there is not a scintilla of evidence in the record that the signature distribution requirement has prevented a legitimate, new statewide political party from obtaining ballot position . . ." This assertion is contrary to fact. In both 1972 and 1974 the Communist Party obtained well over 25,000 signatures but had its petitions rejected by the state authorities because of its inability to satisfy the multi-county signature requirement. In consequence, it would not have appeared on the ballot in either year but for the intervention of the district court.

conclusion is unassailable. Other federal courts have examined a variety of similar statutes and invalidated them on the basis of *Moore.*[2] Accordingly, there is no occasion for review by the Court.

[2] *Socialist Workers Party* v. *Hare,* 304 F. Supp. 534 (E.D. Mich. 1969); *Baird* v. *Davoren,* 346 F. Supp. 515 (D. Mass. 1972); *Socialist Labor Party* v. *Rhodes,* 318 F. Supp. 1262 (S.D. Ohio 1970), appeal dismissed on other grnds. sub nom *Socialist Labor Party* v. *Gilligan,* 406 U.S. 583 (1972). Petitioners' reliance (Pet. Br., pp. 18-20) on *Zautra* v. *Miller,* 348 F. Supp. 847 (D. Utah 1972) is misplaced for three reasons: 1) The court erroneously employed the rational basis rather than the compelling state interest test. 2) The court held Utah's multi-county signature requirement (500 with 10 from each of 10 counties) *de minimis,* particularly in the light of plaintiffs' admission that they could have complied with it. 3) As the court found, Utah offers an alternative route to the ballot by independent petitions which require only 300 signatures with no geographical distribution. In Illinois, on the contrary, the signature and multi-county requirements for independent petitions are identical with those for "new" parties. Illinois Election Code, Ill. Rev. Stat., Ch. 46, section 10-3.

CONCLUSION

Certiorari should be denied.

Respectfully submitted,

HOWARD EGLIT
LANCE HADDIX
DAVID GOLDBERGER
Roger Baldwin Foundation of ACLU
5 South Wabash Street
Chicago, Illinois 60603
312/726-6180

JOHN ABT
299 Broadway
New York, New York 10007
212/CO. 7-3110

MELVIN WULF
American Civil Liberties Union Foundation
22 E. 40th Street
New York, New York
212/725-1222

Attorneys for Respondents